IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jerome S. Golden

Application No.: 09/541,197   Confirmation No.: 4910

Filed: April 3, 2000   Art Unit: 3691

For: SYSTEM AND METHOD FOR PROVIDING   Examiner: S. E. Chencinski
     SECURE RETIREMENT BENEFITS VIA A
     CONVERSION PROCESS

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Appeal Brief is filed concurrently with a Notice of Appeal in response to the Final Office Action mailed June 1, 2010. Applicant/Appellant hereby reinstates the appeal previously noticed on April 3, 2008.

In accordance with M.P.E.P. § 1204.1, the previously paid appeal fees will be applied to this new appeal on the same application as a final Board decision has not been made on the prior appeal. Therefore, **NO FEE IS DUE** with the Notice of Appeal or Appeal Brief filed herewith.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1205.2:

A more detailed Table of Content follows.

TABLE OF CONTENTS

I.   REAL PARTY IN INTEREST

The real party in interest for this appeal is:

MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY

II.   RELATED APPEALS AND INTERFERENCES

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III.   STATUS OF CLAIMS

A.   <u>**Total Number of Claims in Application**</u>

There are 38 claims pending in this application.

B.   <u>**Current Status of Claims**</u>

1.   <u>Claims canceled: 1-54,</u>

2.   <u>Claims pending: 55-93,</u>

3.   <u>Claims rejected: 55-93.</u>

C.   <u>**Claims On Appeal**</u>

The claims on appeal are claims 55-93.

IV.　STATUS OF AMENDMENTS

Appellant filed an Amendment After Final Rejection on January 3, 2008. The Examiner responded to the Amendment After Final Rejection in an Advisory Action mailed April 9, 2008. In the Advisory Action, the Examiner entered Appellants' proposed amendments to the claims.

In the prior appeal, Appellant requested re-opening of prosecution to address new grounds of rejection under 35 U.S.C. § 101 in the Examiner's Answer mailed December 31, 2008. Appellant submitted claim amendment on October 26, 2009 (twice re-submitted on January 6, 2010). The Final Office Action mailed June 1, 2010 appears to indicate that the amendment has overcome the rejection under 35 U.S.C. § 101.

V.   SUMMARY OF CLAIMED SUBJECT MATTER

The claimed invention provides the tools for an individual to conduct much of his or her own retirement planning. The disclosed system functions "as a retirement planning and implementation tool for individuals who have accumulated personal assets and are seeking secured or guaranteed lifetime benefits." (Spec. p. 12, ll. 3-8.) The system takes funds from asset vehicle accounts and allocates the funds toward desired retirement benefits, such as annuities, over an allocation period specified by the individual. (Spec. p. 19, ll. 2-4.) The assets are converted to the retirement benefits over a period of time on a gradual basis. (*Id.*) Thus, it is the individual's "decision, based on his or her risk, tolerance, to determine the length of the conversion period and the amount of funds to keep in higher risk investments." (Spec. p. 19, ll. 8-10.) To enable the individual to manage these and other decisions regarding his or her retirement accounts, the system provides for the valuation of the assets and, more importantly, valuation of the benefits managed by the system.

The system performs various calculations and simulations in order to illustrate to the individual the risks of his selection and the statistical outcomes of his selection. (Spec. p. 41, ll. 15-20.) When a purchase of a benefit is desired, the system determines the value of the benefits purchased to date and also determines the amount of assets remaining to purchase desired benefits. (Spec. p. 33, ll. 4-6.) The system also calculates the target benefit that would be available if the entirety of the asset accounts were allocated toward the purchase of benefits immediately. (Spec. p. 39, ll. 9-15.) The simulations also calculate the current value and target benefit payments at future intervals of the allocation period. (Spec. pp. 42, l. 6 – p. 43, l. 12.) The system thus provides unprecedented tools for the retiree to manage his or her retirement plan.

One advantage of the present invention is that an individual may adjust the benefits in his or her retirement account. Thus, the inventive system provides for changes in the individuals circumstances. The system responds to changed individual input by recalculating the value and target benefits provided by the retirement plan. (Spec. p. 49, ll. 1-7.)

Claims 55, 78 and 80 are independent claims. Claims 55 and 78 set forth an integrated computer system for planning for, implementing and administering a retirement benefit program.

Claims 56-77 depend from claim 55. Claim 79 depends from claim 78. Claim 80 sets forth a method for planning for, implementing and administering a retirement benefit program. Claims 81-93 depend from claim 80.

Independent claim 55 sets forth at least one server operatively connected to a network. (Spec. 12, ll. 10-19.) A data communication link is established with at least one remote client computer. (Spec. p. 17, ll. 18-20.) The server is adapted to store information received from the remote client computer necessary to plan for, implement and administer the retirement benefit program. (Spec. p. 21, ll. 8-12.) The server is further adapted to provide information related to a person's retirement benefit program to the remote client computer. (Spec. p. 18, l. 10 – p. 19, l. 18.) The server includes a controller. (Spec. p. 12, ll. 10-14.) The controller is operatively coupled to storage means for storing financial and statistical information and retirement benefit information. (Spec. p. 20, ll. 11-20.) The information is necessary to calculate current and future values of (i) asset vehicles, including one or more personal assets owned by the person (Spec. p. 20, l. 22 – p. 21, l. 6), (ii) one or more guaranteed life-dependent retirement benefits selected by the person (Spec. p. 21, ll. 8-12), and (iii) benefit payments to the person (Spec. p. 22, ll. 11 – 17). An allocation component is adapted to execute at selected intervals of an allocation period in accordance with a first set of instructions, including information specified by the person, an allocation of a portion of funds corresponding to at least one asset vehicle containing one or more personal financial assets owned by the person towards purchasing one or more fractions of at least a first guaranteed life-dependent retirement benefit that provides income benefit payments to the person. (Spec. p. 32, l. 15 – 33, l. 16.) Thus, the first retirement benefit is gradually purchased during the allocation period while allowing the remainder of the funds corresponding to the asset vehicle to generate investment returns. (Spec. p. 6, ll. 9-17.) The controller is adapted to calculate as of the current date: (i) a total current value representative of a sum of a current value of the first retirement benefit purchased to date based on an individual, personal actuarial valuation of the benefit and a market value of the asset vehicle (Spec. p. 17, ll. 1-6; p. 19, ll. 20-22; p. 22, ll. 11-17; p. 33, ll. 4-10), and (ii) a target benefit payment value representative of a benefit payment available to the person if the allocation component immediately accelerates the allocation period by executing an allocation of funds corresponding to the total current value towards purchasing a remainder of the first guaranteed life-dependent retirement benefit (Spec. p. 39, ll. 9-13). The controller is also

adapted to calculate for each future interval of the allocation period: (i) a total current value and (ii) a target benefit payment, employing relevant portions of the stored financial and statistical information related to future market performance, inflation and interest rates. (Spec. p. 32, l. 15 – p. 33, l. 10.) The server provides the total current value and the target benefit payment value as of the current date, and the total current values and the target benefit payment values of future intervals of the allocation period to the remote client computer for consideration by the person. (Spec. p. 42, l. 6 – p. 43, l. 12.) The controller is further adapted to recalculate for each future interval of the allocation period a recalculated total current value and a recalculated target benefit payment value based on change information received from the remote client computer including a change to the retirement benefit program specified by the person. (Spec. p. 34, l. 11 – p. 35, l. 1.) The server provides the recalculated total current values and the recalculated target benefit values of future intervals of the allocation period to the remote client computer for consideration by the person. (Spec. p. 34, ll. 4-9.) The allocation component is further adapted to alter the allocation of funds towards achieving the recalculated total current values and the recalculated target benefit payment values in accordance with a second set of instructions including information specified by the person based on the change to the retirement benefit program. (Spec. p. 34, l. 16 – p. 35, l. 2.)

Claim 56 sets forth the change to the retirement benefit program specified by the person includes either i) a change in a length of the allocation period (Spec. p. 49, ll. 3-4) or ii) a change in the guaranteed life-dependent retirement benefit (Spec. p. 49, ll. 2-3).

Claim 57 sets forth that the server is adapted to calculate benefit payments to the person during and after the allocation period. (Spec. p. 34, l. 11 – p. 35, l. 7.) The system executes the benefit payments, with each payment during the allocation period including funds from the asset vehicle and funds from the guaranteed life-dependent retirement benefit and each payment after the allocation period including payments from the retirement benefit. (Spec. p. 48, l. 15 – p. 49, l. 10.)

Claim 58 sets forth that the stored financial and statistical information includes (i) historical market returns, (ii) simulated market returns, (Spec. p. 20, ll. 12-15) (iii) current interest rates (Spec. p. 20, ll. 16-17), (iv) simulated interest rates, (v) cost of living indices, or

(vi) simulated cost of living indices (Spec. p. 7, ll. 8-10; p. 28, l. 21 – p. 29, l. 5). (Spec. p 19, ll. 13-17.) The server employs additional information including personal choices related to the benefit program to calculate the future total current values and future target benefit payments. (Spec. p. 17, l. 13 – p. 18, l. 22.)

Claim 59 sets forth that the change to the retirement benefit program is (i) a modification of the allocation period (Spec. p. 24, ll. 6-15), (ii) a modification of the allocation of funds corresponding to the asset vehicle (Spec. p. 36, l. 16 – p. 37, l. 3), (iii) modification of the first guaranteed life-dependent retirement benefit (Spec. p. 21, ll. 14-22), or (iv) personal choices specified by the person (Spec. p. 17, l. 13 – p. 18, l. 8). (Spec. p. 49, ll. 1-7.)

Claim 60 sets forth that the server processes information received from the remote client computer related to the acceleration of the allocation period to instruct the allocation component to execute an allocation of funds corresponding to the total current value towards purchasing a remainder of the first guaranteed life-dependent retirement benefit. (Spec. p. 37, l. 20 – p. 38, l. 3.)

Claim 61 sets forth that the server includes a simulation component adapted to generate a plurality of sample retirement benefit programs. (Spec. p. 49, l. 21 – p. 50, l. 2.) The sample benefit programs are provided in accordance with choices specified by the person or with modifications to the a sample retirement benefit program specified by the person. (Spec. p. 50, ll. 4-9.) Each sample retirement plan includes simulated results of allocation of portions of funds corresponding to asset vehicles towards gradually purchasing fractions of guaranteed life-dependent retirement benefits at selected intervals of the an allocation period. (Spec. p. 42, l. 6 – p. 43, l. 12.)

Claim 62 depends from claim 61 and sets forth that the simulated results include simulated total current values and simulated target benefit payment values for the selected intervals of the allocation period. (Spec. p. 42, ll. 8-16.)

Claim 63 depends from claim 61 and sets forth that the simulation component generates the simulated results as a function of (i) simulated market performance information, (ii) simulated interest rates, or (iii) simulated inflation rates. (Spec. p. 42, l. 6 – p. 43, l. 12.)

Claim 64 depends from claim 61 and sets forth that the simulation component statistically calculates simulated purchase prices of the fractions of the guaranteed life-dependent retirement benefit. (Spec. p. 43, ll. 2-10.)

Claim 65 depends from claim 64 and sets forth that the simulation component statistically calculates the simulated purchase prices by employing information related to simulated interest rates and to (i) information related to projected morbidity of the person or (ii) information related to projected longevity of the person. (Spec. p. 18, ll. 10-18.)

Claim 66 depends from claim 61 and sets forth that the simulation component statistically determines probabilities of achieving or exceeding the guaranteed life-dependent retirement benefit at the expiration of the allocation period. (Spec. p. 39, l. 22 – p. 40, l. 9.)

Claim 67 depends from claim 61 and sets forth that the server receives person-specified information including (i) information related to acceptance by the person of modifications; (ii) information related to rejection by the person of modifications, or (iii) information related to modifications to the sample benefit programs specified by the person. (Spec. p. 41, ll. 7-20.)

Claim 68 sets forth an actuarial valuation component to perform for each of the selected intervals of the allocation period an actuarial valuation of the first guaranteed life-dependent retirement benefit purchased. (Spec. p. 18, ll. 10-17.)

Claim 69 sets forth that the controller calculates for selected intervals of the allocation period a market value of a remainder of the asset vehicle. (Spec. p. 42, ll. 17-19.)

Claim 71 sets forth that the server receives information related to a person-specified benefit index desired for the first guaranteed life-dependent retirement benefit, the index being (i) a level index, (ii) a COLA (CPI-linked) index, or (iii) a market-linked index. (Spec. p. 37, ll. 15-18.)

Claim 72 sets forth that the server receives information related to a person-specified benefit payment collar corresponding to a percentage range below and above a benefit payment in order to dampen the volatility of in income payments received. (Spec. p. 37, ll. 5-13.)

Claim 73 sets forth that the server receives information related to a person-specified stop/loss indication corresponding to a person-defined threshold level the server employs to indicate to the person during the allocation period that the asset vehicle has reached either (i) a desired high market value or (ii) a desired low market value. (Spec. p. 37, l. 20 – p. 38, l. 3.)

Claim 74 sets forth that the current value of the first guaranteed life-dependent retirement benefit as of the current date and fore each future interval of the allocation period includes actuarial valuations of the first guaranteed life-dependent benefit purchased. (Spec. p. 29, l. 20 – p. 30, l. 10.)

Claim 75 sets forth that the asset vehicle generates investment returns to during the allocation period to fund (i) purchases of the first guaranteed life-dependent retirement benefit or (ii) a portion of the benefit payments to the person. (Spec. p. 48, ll. 15-22.)

Independent claim 78 sets forth at least one server operatively connected to a network. (Spec. p. 12, ll. 10-19.) A data communication link is established with at least one remote client computer. (Spec. p. 17, ll. 18-20.) The server is adapted to store information received from the remote client computer necessary to plan for, implement and administer the retirement benefit program. (Spec. p. 21, ll. 8-12.) The server is further adapted to provide information related to a person's retirement benefit program to the remote client computer. (Spec. p. 18, l. 10 – p. 19, l. 18.) The server includes a controller. (Spec. p. 12, ll. 10-14.) The controller is operatively coupled to storage means for storing financial and statistical information and retirement benefit information. (Spec. p. 20, ll. 11-20.) The information is necessary to calculate current and future values of (i) asset vehicles, including one or more personal assets owned by the person (Spec. p. 20, l. 22 – p. 21, l. 6), (ii) one or more guaranteed life-dependent retirement benefits selected by the person (Spec. p. 21, ll. 8-12), and (iii) benefit payments to the person (Spec. p. 22, ll. 11 – 17). A simulation component is adapted to generate a plurality of sample retirement benefit programs in accordance with one or more retirement benefit program choices specified by the person, each sample retirement benefit program including simulated results of allocations of portions of funds corresponding to at least one asset vehicle containing one or more personal financial assets owned by the person towards purchasing one or more fractions of at least one of a plurality of available guaranteed life-dependent retirement benefits at selected intervals of a

plurality of available allocation periods. (Spec. p. 20, ll. 11-20; p. 31, ll. 6-20.) The simulated results including for each of selected intervals of the available allocation period: (i) a simulated total current value representative of a sum of a current value of the available guaranteed life-dependent retirement benefit purchased to date based on an individual, personal actuarial valuation of the benefit and a market value of the asset vehicle, and (ii) a simulated target benefit payment value representative of a benefit payment available to the person if the allocation period is accelerated by executing an allocation of funds corresponding to the simulated total current value towards purchasing a remainder of the available guaranteed life-dependent retirement benefit. (Spec. p. 39, ll. 9-20; Fig. 4b.) The simulation component is further adapted to recalculate the simulated total current value and the simulated target benefit payment value for each of selected intervals of the available allocation period based on at least change information received from at least the remote client computer including at least one change to the sample retirement benefit program specified by the person. (Spec. p. 41, l. 22 – p. 43, l. 43.) The controller is adapted to implement at least one actual retirement benefit program based on selection information received from at least the remote client computer including information identifying at least one sample retirement benefit program selected by the person for implementation. (Spec. p. 48, ll. 1-22.)

Claim 79 sets forth that the simulation component statistically calculates simulated purchase prices of the fractions of the available guaranteed life-dependent retirement benefit employing relevant portions of the stored financial and statistical information and the retirement benefit program information. (Spec. p. 41, l. 15 – p. 43, l. 12.)

Independent claim 80 sets forth a method including allocating by use of a computing device and at selected intervals of an allocation period in accordance with a first set of instructions, including information specified by a person, an allocation of a portion of funds corresponding to at least one asset vehicle containing one or more personal financial assets owned by the person towards purchasing one or more fractions of at least a first guaranteed life-dependent retirement benefit that provides income benefit payments to the person. (Spec. p. 32, l. 15 – p. 33, l. 16.) The first retirement benefit provides one or more income benefit payments to the person to gradually purchase the at least first retirement benefit during the allocation period while allowing the remainder of the funds corresponding to the asset vehicle to generate

investment returns. (Spec. p. 6, ll. 9-17.) The method includes calculating by use of said computing device and as of the current date: (i) a total current value representative of a sum of a current value of the first retirement benefit purchased to date based on an individual, personal actuarial valuation of the benefit and a market value of the asset vehicle (Spec. p. 17, ll. 1-6; p. 19, ll. 20-22; p. 22, ll. 11-17; p. 33, ll. 4-10), and (ii) a target benefit payment value representative of a benefit payment available to the person if the allocation period is accelerated by executing an allocation of funds corresponding to the total current value towards purchasing a remainder of the first guaranteed life-dependent retirement benefit (Spec. p. 39, ll. 9-13). The method includes calculating by use of said computing device and for each future interval of the allocation period: (i) a total current value and (ii) a target benefit payment, employing relevant portions of the stored financial and statistical information related to future market performance, inflation and interest rates. (Spec. p. 32, l. 15 – p. 33, l. 10.) The method includes providing the total current value and the target benefit payment value as of the current date, and the total current values and the target benefit payment values of future intervals of the allocation period to the remote client computer for consideration by the person. (Spec. p. 42, l. 6 – p. 43, l. 12.) The method includes recalculating by use of said computing device and for each future interval of the allocation period a recalculated total current value and a recalculated target benefit payment value based on change information received from the remote client computer including a change to the retirement benefit program specified by the person. (Spec. p. 34, l. 11 – p. 35, l. 1.) The method includes providing the recalculated total current values and the recalculated target benefit values of future intervals of the allocation period to the remote client computer for consideration by the person. (Spec. p. 34, ll. 4-9.) The method also includes, by use of said computing device, altering the allocation of funds towards achieving the recalculated total current values and the recalculated target benefit payment values in accordance with a second set of instructions including information specified by the person based on the change to the retirement benefit program. (Spec. p. 34, l. 16 – p. 35, l. 2.)

Claim 81 sets forth that the change to the retirement benefit program is (i) a change in length of the allocation period (Spec. p. 24, ll. 6-15), (ii) a change to the first guaranteed life-dependent retirement benefit (Spec. p. 21, ll. 14-22), (iii) a modification of the allocation period (Spec. p. 24, ll. 6-15), (iv) a modification of the allocation of funds corresponding to the asset vehicle (Spec. p. 36, l. 16 – p. 37, l. 3), (v) modifications to the first guaranteed life-dependent

retirement benefit (Spec. p. 21, ll. 14-22), or (vi) personal choices specified by the person (Spec. p. 17, l. 13 – p. 18, l. 8). (Spec. p. 49, ll. 1-7.)

Claim 82 sets forth calculating benefit payments to the person during and after the allocation period. (Spec. p. 34, l. 11 – p. 35, l. 7.) The benefit payments are executed with each payment during the allocation period including a sum of funds from the asset vehicle and funds from the guaranteed life-dependent retirement benefit and each payment after the allocation period including payments from the retirement benefit. (Spec. p. 48, l. 15 – p. 49, l. 10.)

Claim 83 sets forth that the relevant financial and statistical information includes (i) historical market returns, (ii) simulated market returns, (Spec. p. 20, ll. 12-15) (iii) current interest rates (Spec. p. 20, ll. 16-17), (iv) simulated interest rates, (v) cost of living indices, or (vi) simulated cost of living indices (Spec. p. 7, ll. 8-10; p. 28, l. 21 – p. 29, l. 5). (Spec. p 19, ll. 13-17.) The server employs additional information including personal choices related to the benefit program to calculate the future total current values and future target benefit payments. (Spec. p. 17, l. 13 – p. 18, l. 22.)

Claim 84 sets forth processing information received from the remote client computer related to the acceleration of the allocation period and accelerating the allocation the allocation period by allocating funds corresponding to the total current value towards purchasing a remainder of the first guaranteed life-dependent retirement benefit. (Spec. p. 37, l. 20 – p. 38, l. 3.)

Claim 85 sets forth simulating a plurality of sample retirement benefit programs. (Spec. p. 49, l. 21 – p. 50, l. 2.) The sample benefit programs are provided in accordance with choices specified by the person or with modifications to the a sample retirement benefit program specified by the person. (Spec. p. 50, ll. 4-9.) Each sample retirement plan includes simulated results of allocation of portions of funds corresponding to asset vehicles towards gradually purchasing fractions of guaranteed life-dependent retirement benefits at selected intervals of the an allocation period. (Spec. p. 42, l. 6 – p. 43, l. 12.)

Claim 86 depends from claim 85 and sets forth that the simulated results include simulated total current values and simulated target benefit payment values for the selected

intervals of the allocation period. (Spec. p. 42, l. 6 – p. 43, l. 12.) The simulated purchase prices are calculated by employing information related to simulated interest rates and to (i) information related to projected morbidity of the person or (ii) information related to projected longevity of the person. (Spec. p. 18, ll. 10-18.)

Claim 87 depends from claim 85 and sets forth calculating the simulated results as a function of (i) simulated market performance information, (ii) simulated interest rates, or (iii) simulated inflation rates. (Spec. p. 42, l. 6 – p. 43, l. 12.) A probability of achieving the available guaranteed life-dependent retirement benefit at an expiration of the available allocation period is also statistically calculated. (Spec. p. 43, ll. 14-20.)

Claim 88 depends from claim 85 and sets forth querying the remote client computer to provide information related to (i) information related to acceptance by the person of modifications; (ii) information related to rejection by the person of modifications, or (iii) information related to modifications to the sample benefit programs specified by the person, and recalculating the simulated results in accordance with modifications. (Spec. p. 41, ll. 7-20.)

Claim 89 depends from claim 85 and sets forth altering the allocation of funds in accordance with the simulated results in response to receiving information related to acceptance by the person of the modifications. (Spec. p. 21, ll. 14-22.)

Claim 91 sets forth calculating the current value of the first guaranteed life-dependent retirement benefit as of the current date and performing for each of the selected intervals of the allocation period an actuarial valuation of the first guaranteed life-dependent retirement benefit purchased. (Spec. p. 18, ll. 10-17.)

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Appellant finds error in each of the claim rejections, which are summarized as follows:

Claims 55, 59, 60, 68, 69, 75, 78, 79, 80 and 84 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of the following nine references:

- o U.S. Patent 6,154,732 (Tarbox),
- o U.S. Patent 6,205,434 (Ryan),
- o Barron's Dictionary of Insurance Terms, 3rd Ed. (Barron's Insurance Terms),
- o Barron's Dictionary of Finance and Investment Terms, Fifth Ed. 1995 (Barron's Finance and Investment Terms),
- o U.S. Patent 5,704,045 (King),
- o U.S. Patent 6,014,642 (El-Kadi),
- o U.S. Patent 5,933,815 (Golden),
- o U.S. Patent 6,275,807 (Schirrpa), and
- o U.S. Published Patent Application 2001/0014873 (Henderson).

The status of claims 70-74, 76, 77, 90, 92 and 93 is not clear.

Claims 56 and 81 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the nine references applied against claims 55 and 80 and further in view of U.S. Patent 5,523,942 (Tyler).

Claims 57 and 82 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the nine references applied against claims 55 and 80 and further in view of U.S. Patent 6,021,397 (Jones) and U.S. Patent 5,893,071 (Cooperstein).

Claims 58, 61-67, 83, 85-89 and 91 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the nine references applied against claims 55 and 80 and further in view of Jones.

VII.   ARGUMENT

A.   **Response to Rejection under Section 103**

None of the multitude of references applied by the Examiner individually or collectively disclose, suggest or render obvious a retirement benefit program in which an individual manages the conversion of assets to guaranteed retirement benefits over an allocation period. None of the references show or suggest recalculating the current value and target benefit payment when the circumstances of the individual change. The Examiner cites to the prior art to show that it is generally known in the insurance and investment industries to convert one asset to another. The Examiner then asserts that it would be within the capabilities of one of ordinary skill in the art to calculate information regarding any conversion. However, the Examiner provides no explanation as to why one skilled in the art would combine the multitude of known elements in the insurance and investment industries in the fashion set forth by Appellant's claims. Under the Examiner's reasoning, there can be no new non-obvious insurance or investment products because the mechanics of buying, selling and valuing insurance and investment products are known in the art. Appellant respectfully asserts that such reasoning is not supported by the proper application of 35 U.S.C. § 103(a).

1.   Requirements of Section 103

As reiterated by the Supreme Court in *KSR* [*International Co. v. Teleflex Inc.* 550 U.S. ____, 82 U.S.P.Q.2d 1385 (2007)] the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries. The factual inquiries enunciated by the Court are as follows:

(A) [Determining the scope and contents of the prior art];
(B) Ascertaining the differences between the claimed invention and prior art; and
(C) Resolving the level of ordinary skill in the pertinent art.

M.P.E.P. § 2141 II.

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection should be made explicit. The Court

> quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336
> (Fed. Cir. 2006), stated that "'[R]ejections on obviousness cannot
> be sustained by mere conclusory statements; instead, there must be
> some articulated reasoning with some rational underpinning to
> support the legal conclusion of obviousness.'" *KSR*, 550 U.S. at
> ___, 82 USPQ2d at 1396.

M.P.E.P. § 2141 III. The Examiner asserts: "The US Supreme Court also reminds courts, practitioners and examiners . . . that the common sense principle should also be included in deciding whether something would have been obvious to the ordinary practitioner of the art at the time of an Applicant's invention." (Final Office Action at 21.) The M.P.E.P., however, makes clear that this reliance on "common sense principles" does not relieve the Examiner of the duty to articulate a clear reason why the claimed invention would be obvious to one skilled in the art. M.P.E.P § 2141 III sets forth seven rationales that may be used support a conclusion of obviousness. These rationales are fully explained in the EXAMINATION GUIDELINES FOR DETERMINING OBVIOUSNESS UNDER 35 U.S.C. 103 IN VIEW OF THE SUPREME COURT DECISION IN KSR INTERNATIONAL CO. V. TELEFLEX INC. (72 Fed. Reg. 57,526 (2007)). The Examiner does not set forth any of these rationales in the Final Office Action in support of the conclusion of obviousness.

        2.   Resolving the Level of Ordinary Skill in the Art

"The examiner has consistently cited the Certified Life Underwriter (CLU) as an example of one of ordinary skill, also citing the government mandated licensing requirements for the thousands of such practitioners throughout the United States of America." (Final Office Action of Jan. 3, 2008 at 19.) It is Appellant's understanding the term "CLU" is used in the art to refer to a "*Chartered* Life Underwriter." The Chartered Life Underwriter is a designation bestowed by The American College on insurance professionals that have completed a specialized course of study. In the field of insurance educational services, the term "CLU" is a trademark of The American College. A web page (http://www.theamericancollege.edu/subpage.php?pageId=256) of The American College setting forth the CLU designation is attached hereto in the Evidence Appendix.

"The examiner's stated judgement [sic] on the record has been that a large component of the exemplary ordinary practitioners of the art are CLU's (certified life underwriters), that that

such practitioners would understand most and perhaps all of the limitations in Applicant's claims, and that viewing the cited references would make them obvious to combine into Applicant's invention." (Final Office Action of Jan. 3, 2008 at 19.) This assertion is an epitome of a mere conclusory statement. Using Appellant's claims as a guide, the Examiner assembles nine references in an attempt to show each claim limitation. Based on this the Examiner concludes that if the CLU viewed the nine cited references, the CLU would have found it obvious to combine the various features into Appellant's invention. Under the Examiner's reasoning, as long as a CLU can "understand most and perhaps all" of the features of any new investment or insurance product, then the new product would be obvious and unpatentable.

The Examiner provides no reason *why* the CLU would have found it obvious to make the combination. The Examiner alludes to the training required to become a CLU. However, there is no indication that CLUs are trained to develop new financial systems or products. Attached in the Evidence Appendix is a web page (http://www.theamericancollege.edu/subpage.php?pageId=333) from The American College setting forth requirements to become a CLU. There is no indication from the information provided in the Evidence Appendix or elsewhere that an ordinary CLU is trained to develop new financial systems or products. Accordingly, even if an ordinary CLU could "understand most and perhaps all" of the features of the limitations of the claimed invention, there would be no reason for such a CLU to combine the myriad of features cited by the Examiner into the novel system and method set forth by Appellant's claims.

A CLU provides insurance advice and products to his customers. The Examiner implies that an ordinary CLU would use every legally approved investment contract and forecasting tweak available. (Final Office Action at 6.) Accordingly, the ordinary CLU would not be aware of products that have not yet achieved legal approval. Attached in the Evidence Appendix is the Code of Professional Responsibility of the Society of Financial Services Professionals. As implied by the Examiner, Financial Services Professionals, including CLUs, are bound to only provide legally approved financial products and services. Thus, products yet to be approved may well be non-obvious to the ordinary CLU. This is the case with Appellant's invention. It was Appellant that first obtained the legal approval for an embodiment of the claimed invention. (Golden Decl. ¶ 7.) In fact, prior to a commercial embodiment of the invention developed by

Appellant, the "Commercial Annuity," there were no products that enabled a guaranteed life-dependent retirement benefit which included allocating a portions of funds from one or more personal financial assets towards purchasing fractions of a guaranteed life dependent retirement benefit. (Golden Decl. ¶ 9.) Accordingly prior to the invention by Appellant, the ordinary CLU would have been unaware of any legally approved investment product that performs as does the claimed invention.

There is no reason that an ordinary CLU would have found it obvious to combine the various features of nine references to arrive at the claimed invention as asserted by the Examiner.

> 3.   General Errors in the Combination of the Applied Art

Appellant addresses the general errors in the Examiner's application of Section 103 with reference to independent claim 80.

Claim 80 sets forth a method for implementing and administering a retirement benefit program including at least one guaranteed, life-dependent retirement benefit. According to the claimed method, a portion of funds corresponding to an asset vehicle is allocated toward purchasing fractions of a guaranteed life-dependent retirement benefit at intervals of an allocation period. As of the current date, the total current value of the retirement benefit purchased and market value of the asset vehicle are calculated. Also calculated is a target benefit payment value representative of a benefit payment available to a person if the allocation period is immediately accelerated by allocating the funds corresponding to the total current value towards purchasing a remainder of the guaranteed life-dependent retirement benefit. For each future interval of the allocation period a total current value and a target benefit payment is calculated. For each future interval of the allocation period a recalculated total current value and a recalculated target benefit payment value is recalculated based on change information received from a remote client computer. Based on a change to the retirement benefit program the allocation of funds is altered towards achieving the recalculated total current values and recalculated target benefit payments.

The applied art does not show or suggest a method or system of implementing and administering a retirement benefit program including at least one guaranteed life-dependent

retirement benefit that calculates total current value and target benefit payments at each allocation period as an asset vehicle is converted to a guaranteed life-dependent retirement benefit. The applied art also does not show or suggest recalculating the current value and target benefit payments at intervals of the allocation period based on change information including a change to the retirement benefit program. The Examiner cites to at least nine references to establish the scope and contents of the prior art. The Examiner establishes that the prior art teaches numerous methods for managing investments and conducting financial transactions. However, the Examiner acknowledges that the primary reference to Tarbox does not show or suggest many limitations of claim 80.

Tarbox does not explicitly disclose:

- Conversion of investments, assets or contracts
- Purchasing of fractions of investments, assets and contracts, including gradual purchases over time.
- Guaranteed life-dependent financial contracts or instruments.
- Recalculations as they apply to the advisor's service activities for the client.
- Financial and statistical information related to future market performance, inflation and interest rates.
- A controller adapted for performing operations of an integrated computer system such as being operatively coupled to storage means for storing information and to calculate and recalculate various values and valuations.

(Final Office Action at 3-4.) The Examiner acknowledges that the primary reference is not directed to converting an asset to a guaranteed life-dependent retirement benefit over an allocation period. The Examiner acknowledges that the primary reference does not teach the calculations and recalculations set forth by claim 80 that enable an individual to implement and administer a retirement benefit program that converts assets to benefits over an allocation period.

Claim 80 sets forth: "allocating at selected intervals of an allocation period in accordance with at least a first set of instructions an allocation of a portion of funds corresponding to at least one asset vehicle, containing one or more personal financial assets owned by the person, towards purchasing one or more fractions of at least a first guaranteed life-dependent retirement benefit that provides one or more income benefit payments to the person to gradually purchase the at

least first retirement benefit during the allocation period." The Examiner does not point out where such a step is taught by the prior art. Rather the Examiner asserts:

> It would have been obvious for a retirement plan buyer to have wanted to know at any time during the period of his initial inquires and negotiations with the current practitioner thorough the first step of conversion until his market based assets were fully converted to life-dependent retirement benefit plans as to what the current value of his current assets was and what the cost of immediate payment of a complete retirement benefit would be if fully paid immediately. Numerous other what-if questions by the asset owner would also have been obvious to expect from the asset owner client or conversion prospect.

(Final Office Action at 5.) The Examiner's assertion is insufficient to establish obviousness. First, the Examiner cites a CLU as one of ordinary skill in the art. (Final Office Action at 6.) However, the Examiner does not state what would have been obvious to a CLU. Rather, the Examiner states his opinion of what a *retirement plan buyer* would have wanted to know. It would not have been obvious for a CLU to have allocated funds corresponding to an asset vehicle towards purchasing fractions of a guaranteed life dependent retirement benefit at selected intervals of an allocation period. As discussed above, *it would not have been obvious to a CLU, because at the time of Appellant's invention there were no retirement benefit products available to for a CLU to offer his clients that provided for such an allocation over an allocation period.* In fact, prior to a commercial embodiment of the invention developed by Appellant, there were no products that enabled a guaranteed life-dependent retirement benefit which included allocating a portion of funds from one or more personal financial assets towards purchasing fraction of a guaranteed life dependent retirement benefit. (Golden Decl. ¶ 9.) The Examiner's statement of obviousness does not articulate a reason why a CLU would modify the teachings of Tarbox to include *allocating at selected intervals of a allocation period a portion of funds corresponding to at least one asset vehicle towards purchasing fractions of a guaranteed life-dependent benefit* as set forth by claim 80.

　　　　Claim 80 further sets forth 1) calculating (i) a total current value and (ii) a target benefit value if the allocation period is accelerated, 2) calculating for each future interval of the allocation period (i) a total current value and (ii) a target benefit payment, and 3) recalculating for each future interval of the allocation period a recalculated total current value and a

recalculated target benefit payment based on change information. The Examiner cites to numerous secondary references allegedly to show the following:

- Barron's Dictionary of Insurance Terms, Barron's Dictionary of Finance and Investment Terms and King to show conversion of investments, assets and contracts,
- Golden to show guaranteed life-dependent financial contracts or instruments,
- El-Kadi to show the purchasing of fractions of investments, assets and contracts including gradual purchases over time,
- Shirripa to show recalculations as they apply to advisor's service activities for the client
- Henderson to show financial and statistical information related to future market performance, inflation and interest rates, and
- Ryan to show a controller.

(Final Office Action at 4-5.) The Examiner asserts:

> Recalculations have been an obvious and common component service activity performed for prospective and existing retirement investment planning clients by the army of ordinary practitioners such as investment advisors, CLU's and personal financial planners, using every legally approved investment contract and forecasting tweak available to a CLU and/or other licensed financial planner and advisor through his licensed and certified training, from his underwriting companies and through his ongoing updates of his professional knowledge base.

(Final Office Action at 6.) The Examiner again appears to assert that a CLU's training and ongoing accumulation of professional knowledge render any calculation or recalculation of any investment or insurance product obvious. Appellant maintains that new and novel investment and insurance products may be developed that employ calculations that are not obvious to ordinary CLUs. Prior to the invention by Appellant, the CLU would have been unaware of any legally approved investment product that performs all of the calculations and recalculations of the claimed invention. In fact, no other financial product, even today, provides altering an existing retirement product based on recalculations based on changed circumstances. The Examiner has failed to articulate an apparent reason why an ordinary CLU would combine the

selected features of the applied references to achieve the calculations and recalculations that are set forth by claim 80.

For these reasons, the Examiner has failed to show obviousness in view of the multiple applied references. The Final Office Action fails to set forth a clear articulation of *why* the claims would have been obvious under the *KSR* decision and the procedures of M.P.E.P § 2141.

4.   Supporting Declarations

Appellant submitted the Declaration of the inventor, Jerome Golden, with the Supplemental Response filed February 1, 2007. Appellant further submitted the Declaration of Larry Port with the Response filed September 18, 2007. These declarations are provided in the Evidence Appendix. The Examiner fails to adequately consider these declarations.

> When an applicant timely submits evidence traversing a rejection, the examiner must reconsider the patentability of the claimed invention. The ultimate determination of patentability must be based on consideration *of the entire record*, by a preponderance of the evidence, with due consideration to the persuasiveness of any arguments and any secondary evidence.

M.P.E.P. § 716.01(d) (emphasis added)(citing *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992)). The Examiner errs by not considering the Golden Declaration in light of the Port Declaration and the arguments presented by Appellant.

The Examiner impermissibly asserts that the Golden Declaration is moot. (Final Office Action of Jan. 3, 2008 at 20.) The Examiner in dismissing the Golden Declaration as moot fails to make a determination of patentability based on consideration of *the entire record*.

The Examiner fails to appreciate the significance of the Golden Declaration. The Examiner's position appears to be that it is known to convert one asset to another in the insurance and investment industries and further that calculating information regarding any such conversion would be with the capabilities of one of ordinary skill in the art. The Examiner's position reduces to the position that there can be no new non-obvious insurance or investment products because the mechanics of buying, selling, and valuing insurance and investment products are known in the art. The Golden Declaration points out the errors in the Examiner's reasoning. The Examiner makes reference to what would have been an obvious activity performed "by the army of ordinary practitioners such as investment advisors, CLU's and

personal financial planners, using every legally approved investment contract . . . available to a CLU and/or other licensed financial planner and advisor." (Final Office Action at 6.) The Golden Declaration explains why the claimed invention would not have been suggested by the knowledge of the "army practitioners" referred to by the Examiner. The Golden Declaration sets forth that Jerome Golden has significant experience in the financial services industry, yet is unaware of any product that predates the invention that provides for the features of the claimed invention. There was simply no "legally approved investment contract . . . available to a CLU and/or other licensed financial planner and advisor" to implement the claimed invention. In fact, the inventor obtained the regulatory approval in all fifty states for the first product that permits practicing the claimed invention. (Golden Decl. ¶ 7.) Prior to Appellant's invention, there were no legally approved investment or insurance products that would enable the invention. Accordingly, the claimed invention would not have been obvious to one of ordinary skill in the art.

In particular, prior to the inventor's implementation of an embodiment of the invention there were no products available that provided for a guaranteed life-dependent retirement benefit for a person which included allocating a portion of funds from one or more personal financial assets of an individual towards purchasing one or more fractions of a guaranteed life-dependent retirement benefit to provide one or more income benefits to the person. (Golden Decl. ¶ 9.) Furthermore, prior to the present invention there was no reason or suggestion to determine a present value of an annuity, retirement benefit or similar insurance product based on an individual's personal data. When a retiree is given the ability to allocate an asset to the purchase of fractions of a guaranteed life-dependent retirement benefit over intervals of an allocation period, the retiree needs to be able to determine the current value of the dependent retirement benefit to himself or herself. There was no such need when purchasing, for example, an annuity in a single transaction. Accordingly, the present invention creates the need to value the purchased retirement benefit based on an individual, personal actuarial valuation. (Golden Decl. ¶ 10.) Furthermore, as the allocation of an asset to purchase a guaranteed life-dependent retirement benefit was not known prior to the instant invention, the ability to recalculate and alter the allocation of funds to achieve a recalculated total current value and a recalculated target benefit payment could not be contemplated by one of ordinary skill in the art. Such

recalculation and allocation alteration were not present in the prior industry offerings. (Golden Decl. ¶¶ 12-13.)

There is a nexus between the merits of the claimed invention and the evidence set forth by the Golden Declaration. The Golden Declaration expressly refers to numerous claim limitations at paragraphs 9-13. The Golden Declaration establishes that these claim limitations were not included in financial products and services available prior to the invention of claimed subject matter. Accordingly, the Examiner's unsupported assertions that these limitations would have been obvious to the "army of ordinary practitioners such as investment advisor, CLU and personal planners" are without merit.

The Port Declaration establishes that the MassMutual Financial Group acquired Golden Retirement Resources principally to obtain a commercial embodiment of the claimed invention. Accordingly, the Port Declaration demonstrates the success of the claimed subjected matter. The Port Declaration provides evidence that when the problem solved by the claimed invention was presented to the decision makers at the MassMutual Financial Group, they did not attempt to solve the problem on their own. Rather than find the solution to the problem obvious, they instead acquired Golden Retirement Resources to obtain the claimed invention. (Port Decl. ¶ 7.) The Port Declaration thus provides the evidence that the claimed invention was not obvious to those of ordinary skill in the art.

The Golden Declaration provides evidence that the ordinary CLU, relied upon by the Examiner as one of ordinary skill in the art, would not have the knowledge of the claimed invention asserted by the Examiner. The Golden Declaration further provides evidence of commercial success of the claimed invention and in fact establishes that MassMutual Financial Group acquired the invention. The Port Declaration establishes that the acquisition was principally to acquire the claimed invention. (Port Decl. ¶ 6.) Accordingly, the Golden Declaration and Port Declaration together establish the commercial success of the claimed invention.

The Examiner asserts that the Port Declaration does not show that the objective evidence of non-obviousness is commensurate with the scope of the claims. (Final Office Action of Jan. 3, 2008 at 16.) To the contrary, the Port Declaration specifically sets forth the Commercial Annuity in terms of the claim limitations. (Port Decl. ¶ 3.) The Port Declaration establishes that the acquisition of these features of the Commercial Annuity, which correspond to the claim limitations, was the principal reason that MassMutual Financial Group acquired Golden

Retirement Resources. (Port Decl. ¶ 6.) Accordingly, the Port Declaration establishes a nexus between the evidence of commercial success and the claimed invention.

The Examiner fails to fully consider the Port Declaration. The Examiner states:

> The declaration makes no reference to the claims. MPEP 716 requires among other things, that a declaration refer to the claims, since the claims are what is examined in application for patentability.

(Final Office Action of Jan. 3, 2008 at 16.) Contrary to the Examiner's assertion, M.P.E.P. § 716 does not require that a declaration under 37 C.F.R. § 1.132 expressly refer to a specific claim. The objective evidence of non-obviousness set forth in the Port Declaration is commensurate with the scope of the claims. The Port Declaration expressly sets forth that the Commercial Annuity provided for the allocation of an asset at selected intervals of an allocation period in accordance with allocation instructions provided by the beneficiary to purchase a single instrument providing guaranteed life-dependent benefits. This embodiment of the invention is commensurate with the scope of the claims.

The Examiner's failure to consider the evidence provided in the Golden and Port Declarations in making the ultimate decision of patentability is error.

> 5.   Claims 55, 70, 76 and 77

Claim 55 stands rejected as being unpatentable over Tarbox in view of eight secondary references. The applied art fails to render claim 56 obvious. Tarbox provides a system and method for providing advice and management of pension assets in which the advice and asset management are separated to eliminate the inherent economic conflict of interest in traditional Benefit Plan programs. Tarbox 1:1-16. Tarbox does not show or suggest a retirement benefit program including a guaranteed life-dependent retirement benefit. Tarbox does not show or suggest allocating at selected intervals of an allocation period a portion of funds corresponding to an asset vehicle towards purchasing fractions of a guaranteed life-dependent retirement benefit. Tarbox thus does not gradually purchase the retirement benefit during the allocation period while allowing a remainder of the funds corresponding to the asset vehicle to generate investment returns. Tarbox does not show or suggest calculating a value representative of a sum of a current value of a retirement benefit purchased to date and market value of an asset vehicle. Tarbox does not show or suggest calculating current values and target benefit amounts at each

future interval of the allocation period. Tarbox does not show or suggest recalculating for each future interval of the allocation period a recalculated total current value and a recalculated target benefit based on change information. Tarbox does not show or suggest altering the allocation of funds towards achieving the recalculated total current values and recalculated target benefits. There is no reason found in the prior art or within the background knowledge possessed by one of ordinary skill in the art to modify Tarbox to include these features.

Claim 55 sets forth a "system for planning for implementing and administering a retirement benefit program including at least one guaranteed life-dependent retirement benefit to provide guaranteed lifetime income to at least one person." The Examiner acknowledges that Tarbox does not disclose guaranteed life-dependent financial contracts or instruments. (Final Office Action at 3-4.) The Examiner fails to provide a reason why one of ordinary skill in the art would have found it obvious to modify Tarbox to include a guaranteed life-dependent retirement benefit. The Examiner relies on the Appellant's own patent, Golden, to show guaranteed life-dependent financial contracts or instruments. However, the Examiner fails to explain how the management of guaranteed life-dependent financial instruments as set forth by the prior Golden patent is compatible with the management of pension assets as taught by Tarbox. Neither Tarbox nor the prior Golden patent explains how the purchase of guaranteed life-dependent financial instrument could be managed by the Tarbox system that invests in a series of trusts that are portfolios of composite asset classes that invest in a plurality of mutual funds. Tarbox 4:37-39. One of ordinary skill in the art would not find it obvious to modify the Tarbox system directed to managing risk by investment in common trusts to include individual benefits such as a guaranteed life-dependent retirement benefit.

Claim 55 sets forth an "allocation component being adapted to execute at selected intervals of an allocation period in accordance with at least a first set of instructions an allocation of a portion of funds corresponding to at least one asset vehicle containing one or more personal financial assets owned by the person towards purchasing one or more fractions of at least a first guaranteed life-dependent retirement benefit that provides one or more income benefits to the person." The Examiner asserts that this is essentially a conversion program from one or more assets to another asset. However, nothing in the prior art shows or suggest such a conversion program that 1) operates at intervals over a conversion period, and 2) converts funds

corresponding to at least one asset vehicle to one or more fractions of a guaranteed life-dependent retirement benefit. Accordingly, this limitation is not obvious in view of the prior art.

The Examiner relies on the secondary reference to El-Kadi to show the purchase of fractions of investments, assets and contracts, including gradual purchases over time. However, El-Kadi is directed to benefits processing system that manages 401(k) retirement accounts in a manner that permits plan participants to invest in any investment that is traded on any exchange or over the counter. El-Kadi 2:9-14. El-Kadi recognizes that regular purchases are likely to be made in a 401(k) account over time as the account is funded through payroll deductions. Accordingly, El-Kadi contemplates buying investments such as stocks or mutual fund shares using dollar cost averaging, in which participants invest a fixed dollar amount on a periodic basis. As the dollar amount is fixed, the system is able to purchase fractional shares to achieve the fixed purchase amount. El-Kadi 5:57-62. There is no teaching in El-Kadi that suggests purchasing a single contract or investment by purchasing fractions of the whole investment over intervals of a conversion period.

There is in fact no suggestion in the art of record of the gradual conversion of an asset to a guaranteed life-dependent retirement benefit over a conversion period. The Examiner asserts that this claim limitation "is essentially a conversion program from one or more assets to another asset." The Examiner cites to the Barron's Dictionary of Insurance Terms and Barron's Dictionary of Finance and Investment Terms and King to show that conversion is known. However, the relevant issue is not whether conversion in general is old art, but rather whether the conversion process as defined by the pending claims would have been obvious to one of ordinary skill in the pertinent art. The Examiner has articulated no reasoning with some rational underpinning to support the conclusion that the conversion of an asset to a guaranteed life-dependent retirement benefit over a conversion period would have been obvious to one of ordinary skill in the art.

Claim 55 sets forth that the controller is adapted to calculate "a total current value representative of a sum of a current value of the retirement benefit purchased to date based on an individual, personal actuarial valuation of the benefit and a market value of the asset vehicle." The Examiner asserts that "calculating and recalculating current values and future values for any

number of future intervals and contractual assumptions and contingencies being considered has been well known in the art, including on an individual, personal actuarial valuation of the benefit and a market value of the asset vehicle." (Final Office Action at 5.) Appellant traverses this assertion by the Examiner. Accordingly, Appellants request that the Examiner provide evidence to support the assertion that an individual, person actuarial valuation of a life-dependent retirement benefit is well known in the art. The claimed system calculates the current value of the fraction of a life-dependent retirement benefit purchased to date based on an individual, personal actuarial valuation of the benefit. There are simply no other methods or systems that simulated the pricing of an annuity. There is no showing or suggestion of the calculations set forth in claim 55 were known to one of skill in the art.

Claim 55 sets forth calculating the total current value and target benefit payments for each future interval of the allocation period. As the conversion of an asset to a guaranteed life-dependent retirement benefit over an allocation period is not suggested in the prior art, there is no basis to conclude that it would have been obvious to one of ordinary skill to have calculated total current values and target benefit payments of a retirement benefit program in which such conversion is accomplished.

Claim 55 sets forth recalculating a recalculated total current value and recalculated target benefit payment value based on change information including a change to the retirement benefit program specified by the owner. The Examiner merely asserts: "Recalculations have been an obvious and common component service activity performed for prospective and existing retirement investment planning clients by the army of ordinary practitioners such as investment advisors, CLU's and personal financial planners using every legally approved investment contract and forecasting tweak available to a CLU and/or licensed financial planner and advisor through his licensed and certified training, from his underwriting companies and through his ongoing updates of his professional knowledge base." (Final Office Action at 6.) While a CLU might appreciate the advisability of periodically reviewing a client's financial or estate plan, there is no evidence that the typical CLU would have the skills to design an automated system to evaluate and effectuate a revised plan. The claims do not set forth recalculation in general. The claims set forth a recalculated target benefit payment in a retirement benefit program in which assets are allocated to a guaranteed life-dependent retirement benefit over an allocation period.

There is no suggestion that any of the "army of ordinary practitioners" referred to by the Examiner ever conducted or contemplated a recalculation as set forth by claim 55.

Claim 55 further sets forth altering "the allocation of funds towards achieving the recalculated total current values and the recalculated target benefit payment values." The Examiner does not address this limitation of claim 55. There is no suggestion that one of ordinary skill in the art would have found it obvious to alter the allocation funds towards purchasing fractions of a guaranteed life-dependent retirement benefit over an allocation period.

The applied prior art fails to show or suggest several limitations of claim 55 including executing at selected intervals of an allocation period an allocation of a portion funds corresponding to at least one asset vehicle towards purchasing fractions of a guaranteed-life dependent retirement benefit. The prior art fails to teach or suggest purchasing at selected intervals fractions of a particular retirement benefit as set forth by claim 55. Furthermore, the prior art references, and the Examiner, are silent regarding altering the allocation of funds towards achieving a recalculated values. Moreover, there is no reason to combine the teachings of the various applied references as suggested by the Examiner for the reasons set forth above. For these reasons, claim 55 is patentable over the applied prior art.

Claims 70, 76 and 77 depending from claim 55 are patentable over the applied art for at least the reasons discussed above.

6.   Claim 56

Claim 56 depends from claim 55 and is rejected over the prior art applied against claim 55 in further view of Tyler. Claim 56 sets forth that the change to the retirement benefit program that serves as the basis for the recalculation includes either 1) a change in the length of the allocation period or 2) one or more changes in the guaranteed life-dependent retirement benefit. The Examiner acknowledges that the art applied against claim 55 does not teach the limitations set forth by claim 56. The Examiner asserts that Tyler teaches one or more changes in a guaranteed life-dependent retirement benefit. Tyler is directed to a system for entering and processing insurance and product information. The Tyler system does collect information in order to present insurance proposal information. However, Tyler includes no showing or suggestion of an input of a change in a guaranteed life-dependent retirement benefit which is the

basis of for recalculation of the current value and target benefit payment over intervals of an allocation period. The Examiner asserts that it would have been obvious to one skilled in the art to have combined the disclosures of ten references in order to provide for the planning for, implementing and administering a retirement benefit program including at least one guaranteed, life-dependent retirement benefit to provide a guaranteed lifetime income to at least one person using at least one or more personal financial assets owned by the person. There is no reason that one skilled in the art would have combined the references in the manner suggested by the Examiner to arrive at the claimed invention. The Examiner asserts that the combination would be "motivated by a desire to respond to a client's request for information on a previously sold product insurance industry product, which includes life dependent annuity products, or projecting the impact on policy values if certain product assumptions are modified, such as a shortening or expansion of a conversion period." (Final Office Action at 9.) However, the prior art is silent regarding shortening or expansion of a conversion period. Tyler does not address providing information which serves as a basis to recalculate a previously sold insurance industry product as implied by the Examiner. One of ordinary skill in the art would have no reason to modify the teaching of Tarbox and the other applied references with the teaching of Tyler to arrive at the claimed invention. For this reason and the reasons set forth with respect to claim 55, claim 56 is patentable over the applied prior art.

> 7.   Claim 57

Claim 57 depends from claim 55 and sets forth that the server is further adapted to calculate a plurality of benefit payments during and after the allocation period. The Examiner acknowledges that the references applied against claim 55 do not show the limitations set forth by claim 57. The Examiner relies on the addition references to Jones and Cooperstein to show the limitations set forth in claim 57. The Examiner asserts Jones and Cooperstein disclose calculating benefit payments corresponding to selected retirement benefits for a client during and after a conversion period, wherein the benefits payments during the conversion period are made from at least one asset vehicle and purchased benefits and the benefit payments after the conversion period are provided by the purchased benefits. The Examiner is incorrect. Jones is directed to system for optimizing portfolio allocations. Jones does not calculate benefit payments during and after a conversion period. Cooperstein is directed to software for valuing annuities. However, Cooperstein is silent regarding purchasing an annuity over an allocation

period. Cooperstein does not calculate payments during an allocation period as set forth by claim 57. The Examiner asserts that it would have been obvious to the ordinary practitioner to provide payments to a beneficiary during an allocated asset conversion program period. However, not one of the eleven references applied against claim 57 suggest such payments. The Examiner asserts that the motivation to combine the applied references in a manner to arrive at the claimed invention is to provide more disclosure of the workings of the purchased benefit plans so that customers can appreciate and act on the critical components of such contracts. However, the critical components of the claimed invention are not suggested by the applied art.

8. Claim 58

Claim 58 depends from claim 55 and further sets forth details of the stored financial and statistical information and sets forth additional information including at least one or more person-specified personal choices related to the retirement benefit program. Claim 58 is rejected as being unpatentable over the nine references applied against claim 55 and further in view of Jones. The Examiner does not address how the applied prior art shows or suggests the additional information set forth by claim 58. Accordingly, the Examiner has not set forth a proper rejection of claim 58. Claim 58 is patentable over the applied references for at least the reasons set forth above with respect to claim 55.

9. Claim 59

Claim 59 depends from claim 55 and further sets forth details of the change to the retirement benefit program that serves as the basis for the recalculated total current value and recalculated target benefit. Claim 59 is rejected as unpatentable over the same references as applied against 55. The Examiner does not address the specific changes to the retirement benefit program set forth by claim 59. Claim 59 is patentable over the prior art for at least the reasons set forth above with respect to claim 55.

10. Claim 60

Claim 60 depends from claim 55 and further sets forth information received to instruct the allocation component to execute an allocation of funds towards purchasing a remainder of the guaranteed life-dependent retirement benefit. The Examiner asserts that the acceleration of benefits is a long standing tool in the insurance segment of the financial services industry.

However, the long standing tool of acceleration in the insurance industry is related to payments from a life insurance policy that are paid prior to the death of the insured. *See* Barron's Insurance Terms, p. 2. There is no teaching or suggestion in the applied art to purchase a remainder of a guaranteed life-dependent retirement benefit as set forth by claim 60. For this reason and the reasons set forth above with respect to claim 55, claim 60 is patentable over the applied art.

        11.   Claim 61

Claim 61 depends from claim 55 and further sets forth a simulation component. The Examiner acknowledges that the art applied against claim 55 does not disclose the simulation component set forth by claim 61. Claim 61 is rejected as unpatentable over the art applied against claim 55 and further in view of Jones. For the reasons, set forth above with respect to claim 55 the applied art does not show or suggest allocating a portion of funds corresponding to an asset vehicle towards purchasing fractions of a guaranteed life-dependent retirement benefit over intervals of an allocation period. Jones does not correct for this deficiency of the applied art. Jones does not show or suggest generating a plurality of sample retirement benefit programs including simulated results of allocations at intervals of at least one of a plurality of available allocation periods as set forth by claim 61. Claim 61 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

        12.   Claim 62

Claim 62 depends from claim 61. Claim 62 sets forth that the simulated results include simulated total current values and simulated target benefit payment values. Claim 62 is rejected over the art applied against claim 61. The applied art does not show or suggest calculating current values and target benefit payment values over the selected intervals of an allocation period for the reasons set forth above with respect to claim 55. Claim 62 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

        13.   Claim 63

Claim 63 depends from claim 61 and further sets forth details of the basis of the simulation results. Claim 63 is rejected as unpatentable over the art applied against claim 61. The Examiner states: "The analytical, simulation based use of market performance information,

market performance information, interest rates and inflation rates are discussed in the rejection of claims 80-86 above." (Final Office Action at 13.) Appellant is uncertain as to what discussion the Examiner refers. However, as discussed above with respect to claim 61, the applied art does not show or suggest the simulations set forth by these claims. Accordingly, claim 63 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

14.   Claim 64

Claim 64 depends from claim 61 and further sets forth that the simulation component is adapted to statistically calculate simulated purchase prices of fractions of the guaranteed, life-dependent retirement benefit. Claim 64 is rejected as unpatentable over the art applied against claim 61. The applied art does not show or suggest purchasing fractions of a guaranteed life-dependent retirement benefit. Accordingly, there is no suggestion to calculate simulated purchase prices of such fractional purchases. Claim 64 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

15.   Claim 65

Claim 65 is amended to depend from claim 64. Claim 65 further sets forth information employed to statistically calculate the simulated purchase prices. Claim 65 is rejected as being unpatentable over the art applied against claim 61. The applied art does not show or suggest purchasing fractions of a guaranteed life-dependent retirement benefit. Accordingly, there is no suggestion to employ morbidity or longevity information to calculate simulated purchase prices of such fractional purchases. Claim 65 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

16.   Claim 66

Claim 66 depends from claim 61 and further sets forth that the simulation component is adapted to statistically determine a probability of achieving or exceeding the guaranteed life-dependent retirement benefit at an expiration of the allocation period. Claim 66 is rejected as being unpatentable over the art applied against claim 61. The applied art does not show or suggest purchasing a guaranteed life-dependent retirement benefit over an allocation period. Accordingly, the applied art does not show or suggest determining the probability of achieving or exceeding a guaranteed life-dependent benefit by the expiration of the allocation period.

Claim 66 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

17.   Claim 67

Claim 67 depends from claim 61 and further sets forth information received from the remote client regarding modifications. Claim 67 sets forth that the simulation component is adapted to recalculate the simulated results in accordance with one or more modifications. Claim 67 is rejected as being unpatentable over the art applied against claim 61. The applied art does not show or suggest simulated results of allocations of funds corresponding to an asset vehicle towards gradually purchasing fractions of a guaranteed life-dependent retirement benefit at selected intervals of an allocation period. Accordingly, the applied art does not show recalculating the simulated results in accordance with one or more modifications. Claim 67 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

18.   Claim 68

Claim 68 depends from claim 55 and further sets forth an actuarial valuation component adapted to perform for each selected interval of the allocation period an actuarial valuation of the guaranteed life-dependent retirement benefit purchased to date. Claim 68 is rejected as being unpatentable over the art applied against claim 55. The applied art does not show or suggest allocating a portion of funds corresponding to an asset vehicle towards purchasing fractions of a guaranteed life-dependent retirement benefit over intervals of an allocation period. Accordingly, the applied art does not show an actuarial valuation of the guaranteed life-dependent retirement benefit for each interval of the allocation period. Claim 68 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

19.   Claim 69

Claim 69 depends from claim 55 and further sets forth that the controller is adapted to calculate for selected intervals of the allocation period a market value of a remainder of the asset vehicle. Claim 68 is rejected as being unpatentable over the art applied against claim 55. The applied art does not show or suggest allocating a portion of funds corresponding to an asset vehicle towards purchasing fractions of a guaranteed life-dependent retirement benefit over intervals of an allocation period. Accordingly, the applied art does not show calculating a

market value of the asset vehicle at intervals of the allocation period. Claim 69 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

20.   Claim 71

Claim 71 depends from claim 55 and sets forth information related to a person-specific benefit index. The Examiner acknowledges that this limitation is not explicitly disclosed by the applied art. (Final Office Action at 6-7.) The Examiner asserts that such indexes have been well known in the art. *Id.* Appellant submits that it is not well known to use such an index with a guaranteed life-dependent benefit that is purchased at intervals over an allocation period. Claim 71 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

21.   Claim 72

Claim 72 depends from claim 55 and sets forth information related to a person-specified benefit payment collar. The Examiner acknowledges that this limitation is not explicitly disclosed by the applied art. (Final Office Action at 7.) The Examiner asserts that such collars have been well known in the financial arts. Appellant traverses the Examiner's assertion. Appellant submits that a person-specified benefit collar corresponding to a percentage range below and above a benefit payment of a guaranteed life-dependent benefit purchased over an allocation period is not well known in the art. Claim 72 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

22.   Claim 73

Claim 73 depends from claim 55 and sets forth information related to a person-specified stop/loss indication. The Examiner acknowledges that this limitation is not explicitly disclosed by the applied art. (Final Office Action at 7-8.) The Examiner asserts that stop/loss arrangements have been well known in the financial arts. However, there is no suggestion that it would have been known or obvious to process a stop/loss arrangement toward implementing a retirement benefit program as set forth by claim 73. Claim 73 is patentable over the applied art for at least he reasons set forth above with respect to claim 55.

23. Claim 74

Claim 74 depends from claim 68. Claim 74 sets forth that the value of the first guaranteed life-dependent retirement benefit as of the current date and each future interval of the allocation period includes actuarial valuations of the guaranteed life-dependent benefit purchased. The applied art does not show or suggest allocating a portion of funds corresponding to an asset vehicle towards purchasing fractions of a guaranteed life-dependent retirement benefit over intervals of an allocation period. Accordingly, the applied art does not show an actuarial valuation of the guaranteed life-dependent retirement benefit each future interval of the allocation period. Claim 74 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

24. Claim 75

Claim 75 depends from claim 55 and sets forth that the asset vehicle includes investment vehicles configured to generate investment returns during the allocation period to i) fund purchases of the guaranteed life-dependent retirement benefit or ii) fund a portion of benefit payments. The Examiner does not address the limitations of claim 75. The applied art does not teach or suggest investment vehicles which fund purchases of a guaranteed life-dependent retirement benefit or benefit payments. Claim 75 is patentable over the applied art for at least the reasons set forth above with respect to claim 55.

25. Claim 78

Claim 78 stands rejected as being unpatentable over Tarbox in view of the eight secondary references applied against claim 55. The Examiner does not directly address the limitations of claim 78. The applied art fails to render claim 78 obvious for reasons similar to those set forth with regard to claim 55 above.

Claim 78 sets forth a "integrated computer system for planning for, implementing and administering a retirement benefit program including at least one guaranteed life-dependent retirement benefits to provide guaranteed lifetime income to at least one person." The Examiner acknowledges that Tarbox does not disclose as guaranteed life-dependent financial contracts or instruments. (Final Office Action at 3-4.) The Examiner relies on Golden, to show guaranteed life-dependent financial contracts or instruments. As discussed with respect to claim 55, the

Examiner fails to explain how the management of guaranteed life-dependent financial instruments as set forth by the prior Golden patent is compatible with the management of pension assets as taught by Tarbox. One of ordinary skill in the art would not find it obvious to modify the Tarbox system directed to managing risk by investment in common trusts to include individual benefits such as a guaranteed life-dependent retirement benefit.

Claim 78 sets forth a "simulation component being adapted to generate a plurality of sample retirement benefit programs in accordance with one or more retirement benefit program choices specified by the person, each sample retirement benefit program including simulated results of allocations of portions of funds corresponding to at least one asset vehicle containing one or more personal assets owned by the person towards purchasing one or more fractions of at least one of a plurality of available guaranteed life-dependent retirement benefits at selected intervals of at least one of a plurality of available allocation periods." The Examiner fails to address this simulation component. Nothing in the applied art shows or suggests such results of allocations of funds corresponding to an asset vehicle towards purchasing fractions a guaranteed life-dependent retirement benefits at selected intervals of an allocation period. As discussed above with respect to claim 55 one of ordinary skill in the art would not find it obvious to combine the applied art to arrive at this feature of the claimed invention.

Claim 78 sets forth that the simulated results include for selected intervals of the allocation period a simulated total current value representative of a sum of a current value of the available guaranteed life-dependent retirement benefit purchased to date based on an individual, personal actuarial valuation of the benefit and market value of the asset vehicle. None of the applied references show or suggest purchasing a guaranteed life-dependent retirement benefit over an allocation period. Accordingly, the applied prior art does not show or suggest the simulated results set forth by claim 78.

Claim 78 sets forth that the simulated results include a simulated target benefit payment value representative of a benefit payment available to the person if the controller immediately accelerates the allocation period by executing an allocation of funds corresponding to the simulated total current value towards purchasing a remainder of the guaranteed life-dependent retirement benefit. None of the applied references address purchasing a guaranteed life-

dependent retirement benefit over an allocation period. Accordingly, the applied art does not show or suggest calculating a benefit payment value if the purchase of the guaranteed life-dependent retirement benefit is accelerated.

Claim 78 sets forth that the simulation component recalculates the simulated total current value and simulated target benefit payment value based on change information including a change to the sample retirement benefit program specified by the person. There is no suggestion that one of ordinary skill in the art would have found such recalculations obvious for the reasons set forth above with respect to claim 55.

Claim 78 further sets that the controller is adapted to implement an actual retirement benefit program based on information including information identifying at sample retirement benefit program selected by the person for implementation. The applied art does not show or suggest any retirement programs that include purchasing a guaranteed life-dependent retirement benefit as set forth by claim 78. Accordingly, the applied art does not show or suggest any controller that is adapted to implement such a retirement benefit program.

The applied prior art fails to show or suggest several limitations of claim 78 including the simulation component that calculates at selected intervals of an allocation period an allocation of a portion funds corresponding to at least one asset vehicle towards purchasing fractions of a guaranteed-life dependent retirement benefit. The prior art fails to teach or suggest implementing such a retirement benefit as set forth by claim 78. Moreover, there is no reason to combine the teachings of the various applied references as suggested by the Examiner for the reasons set forth above. For these reasons, claim 78 is patentable over the applied prior art.

26.   Claim 79

Claim 79 depends from claim 78 and sets forth that the simulation component is adapted to statistically calculate simulated purchase prices of the fractions of the guaranteed life-dependent retirement benefit employing relevant portions of stored financial and statistical information and retirement benefit program information. Claim 79 is rejected as being unpatentable over the art applied against claim 78. The applied art does not show or suggest the purchase of guaranteed life-dependent retirement benefits over an allocation period. Accordingly, the applied art does not show or suggest calculating simulated purchase prices of

the fractions of the guaranteed life-dependent retirement benefit. Claim 79 is patentable over the applied art for the reasons set forth above with respect to claim 78.

27.   Claims 80, 90, 92 and 93

Claim 80 stands rejected as being unpatentable over Tarbox in view of the eight secondary references applied against claim 55. The applied art fails to render claim 80 obvious for reasons similar to those set forth above with respect to claim 55. The Examiner has failed to articulate reasoning with some rational underpinning to support the reasons why one of ordinary skill in the art would find it obvious to combine the teachings of the nine references to arrive at the claimed invention for the reasons discussed above.

Claim 80 sets forth a method "for planning for implementing and administering a retirement benefit program including at least one guaranteed, life-dependent retirement benefit to provide guaranteed lifetime income to at least one person." The Examiner acknowledges that Tarbox does not disclose guaranteed life-dependent financial contracts or instruments. (Final Office Action at 3-4.) The Examiner relies on Golden to show guaranteed life-dependent financial contracts or instruments. However, the Examiner fails to explain how the management of guaranteed life-dependent financial instruments as set forth by the prior Golden patent is compatible with the management of pension assets as taught by Tarbox. One of ordinary skill in the art would not find it obvious to modify the Tarbox system directed to managing risk by investment in common trusts to include individual benefits such as a guaranteed life-dependent retirement benefit for the reasons set forth above with respect to claim 55.

Claim 80 sets forth "allocating at selected intervals of an allocation period in accordance with at least a first set of instructions an allocation of a portion of funds corresponding to at least one asset vehicle, containing one or more personal financial assets owned by the person, towards purchasing one or more fractions of at least a first guaranteed life-dependent retirement benefit that provides one or more income benefits to the person." Nothing in the prior art shows or suggest such a conversion program that 1) operates at intervals over a conversion period, and 2) converts funds corresponding to at least one asset vehicle to one or more fractions of a guaranteed life-dependent retirement benefit. This limitation is not obvious in view of the prior art for the reasons set forth with respect to claim 55.

Claim 80 sets forth calculating a total current value representative of a sum of a current value of the retirement benefit purchased to date based on an individual, personal actuarial valuation of the benefit and a market value of the asset vehicle. There is no showing or suggestion that it was known in the art to calculate the current value of a retirement benefit based on an individual, personal actuarial valuation of the benefit. The claimed system calculates the current value of the fraction of a life-dependent retirement benefit purchased to date based on in individual, personal actuarial valuation of the benefit. There is no showing or suggestion of such a calculation in the prior art for the reasons set forth above with respect to claim 55.

Claim 80 sets forth calculating a target benefit payment value representative of a benefit payment available to the person if the programmed computer immediately accelerates the allocation period by executing an allocation of funds corresponding to the total current value towards purchasing a remainder of the guaranteed life-dependent retirement benefit. None of the applied references address purchasing a guaranteed life-dependent retirement benefit over an allocation period. Accordingly, the applied art does not show or suggest calculating a benefit payment value if the purchase of the guaranteed life-dependent retirement benefit is accelerated.

Claim 80 sets forth calculating the total current value and target benefit payments for each future interval of the allocation period. As the conversion of an asset to a guaranteed life-dependent retirement benefit is not suggested in the prior art, there is no basis to conclude that it would have been obvious to one of ordinary skill to have calculated total current value and target benefit payments of retirement benefit program in which such conversion is accomplished.

Claim 80 sets forth recalculating a recalculated total current value and recalculated target benefit payment value based on change information including a change to the retirement benefit program specified by the person. There is no suggestion that one of ordinary skill in the art would have found such recalculations obvious for the reasons set forth above with respect to claim 55.

Claim 80 further set forth altering the allocation of funds towards achieving the recalculated total current values and the recalculated target benefit payment values. The Examiner does not address this limitation of claim 80. There is no suggestion that one of

ordinary skill in the art would have found it obvious to alter the allocation funds towards purchasing fractions of a guaranteed life-dependent retirement benefit over an allocation period.

The applied prior art fails to show or suggest several limitations of claim 80 including allocating at selected intervals of an allocation period an allocation of a portion funds corresponding to at least one asset vehicle towards purchasing fractions of a guaranteed-life dependent retirement benefit. The prior art fails to teach or suggest purchasing at selected intervals fractions of a particular retirement benefit as set forth by claim 80. Furthermore, the prior art references, and the Examiner, are silent regarding altering the allocation of funds towards achieving a recalculated values. Moreover, there is no reason to combine the teachings of the various applied references as suggested by the Examiner for the reasons set forth above. For these reasons, claim 80 is patentable over the applied prior art.

Claims 90, 92 and 93 depending from claim 80 are patentable over the applied art for the reasons set forth with respect to claim 80.

    28.   Claim 81

Claim 81 depends from claim 80 and is rejected over the prior art applied against claim 80 in further view of Tyler. Claim 81 further sets forth the change to the retirement benefit program The Examiner acknowledges that the art applied against claim 80 does not teach the limitations set forth by claim 81. (Final Office Action at 9.) The Examiner asserts that Tyler teaches one or more changes in a guaranteed life-dependent retirement benefit. *Id.* Tyler includes no showing or suggestion of an input of a change in a guaranteed life-dependent retirement benefit which is the basis of for recalculation of the current value and target benefit payment over intervals of an allocation period for the reasons set forth with respect to claim 56. One of ordinary skill in the art would have no reason to modify the teaching of Tarbox and the other applied references with the teaching of Tyler to arrive at the claimed invention. For this reason and the reasons set forth with respect to claim 80, claim 81 is patentable over the applied prior art.

29.   Claim 82

Claim 82 depends from claim 80 and sets forth calculating a plurality of benefit payments during and after the allocation period. The Examiner acknowledges that the references applied against claim 80 do not show the limitations set forth by claim 82. (Final Office Action at 9-10.) The Examiner relies on the addition references to Jones and Cooperstein to show the limitations set forth in claim 82. The Examiner asserts Jones and Cooperstein disclose calculating benefit payments corresponding to selected retirement benefits for a client during and after a conversion period, wherein the benefits payments during the conversion period are made from at least one asset vehicle and purchased benefits and the benefit payments after the conversion period are provided by the purchased benefits. The Examiner is incorrect for the reasons set forth with respect to claim 57. Claim 83 is patentable over the applied references for at least the reasons set forth with respect to claims 57 and 80.

30.   Claim 83

Claim 83 depends from claim 80 and further sets forth details of the financial and statistical information and sets forth additional information including at least one or more person-specified personal choices related to the retirement benefit program. Claim 83 is rejected as being unpatentable over the nine references applied against claim 80 and further in view of Jones. The Examiner does not address how the applied prior art show or suggest the additional information set forth by claim 83. Accordingly, the Examiner has not set forth a proper rejection of claim 83. Claim 83 is patentable over the applied references for at least the reasons set forth with respect to claim 80.

31.   Claim 84

Claim 84 depends from claim 80 and further sets forth accelerating the allocation period by allocating funds towards purchasing a remainder of the guaranteed life-dependent retirement benefit. There is no teaching or suggestion in the applied art to purchase a remainder of a guaranteed life-dependent retirement benefit for the reasons set forth above with respect to claim 60. For the reasons set forth above with respect to claims 60 and 80, claim 84 is patentable over the applied art.

32.   Claim 85

Claim 85 depends from claim 80 and further sets forth simulating a plurality of sample retirement benefit programs. The Examiner acknowledges that the art applied against claim 80 does not disclose the simulation set forth by claim 85. Claim 85 is rejected as unpatentable over the art applied against claim 80 and further in view of Jones. Jones does not show or suggest generating a plurality of sample retirement benefit programs including simulated results of allocations at intervals of at least one of a plurality of available allocation periods for the reasons set forth with respect to claim 61. Claim 85 is patentable over the applied art for at least the reasons set forth above with respect to claims 61 and 80.

33.   Claim 86

Claim 86 depends from claim 85. Claim 86 sets forth that the simulated results include simulated total current values and simulated target benefit payment values. Claim 86 is rejected over the art applied against claim 85. The applied art does not show or suggest calculating current values and target benefit payment values over the selected intervals of an allocation period for the reasons set forth above with respect to claim 80. Claim 86 is patentable over the applied art for at least the reasons set forth above with respect to claim 80.

34.   Claim 87

Claim 87 depends from claim 85 and further sets forth details of the basis of the simulation results. Claim 87 is rejected as unpatentable over the art applied against claim 85. As discussed above with respect to claim 85, the applied art does not show or suggest the simulations set forth by these claims. Accordingly, claim 87 is patentable over the applied art for at least the reasons set forth above with respect to claim 80.

35.   Claim 88

Claim 88 depends from claim 85 and further sets forth information received from the remote client regarding modifications. Claim 88 sets forth recalculating the simulated results in accordance with one or more modifications. Claim 88 is rejected as being unpatentable over the art applied against claim 85. The applied art does not show or suggest simulated results of allocations of funds corresponding to an asset vehicle towards gradually purchasing fractions of a guaranteed life-dependent retirement benefit at selected intervals of an allocation period.

Accordingly, the applied art does not show recalculating the simulated results in accordance with one or more modifications. Claim 88 is patentable over the applied art for at least the reasons set forth above with respect to claim 80.

36.   Claim 89

Claim 89 depends from claim 85 and further sets forth altering the allocation of funds in accordance with the simulated results in response to receiving information related to acceptance by the person of the modifications. Claim 89 is rejected as being unpatentable over the art applied against claim 85. The applied art does not show or suggest simulated results of allocations of funds corresponding to an asset vehicle towards gradually purchasing fractions of a guaranteed life-dependent retirement benefit at selected intervals of an allocation period. Accordingly, the applied art does not show altering the allocation of funds in accordance with a modification to any such simulated result. Claim 89 is patentable over the applied art for at least the reasons set forth above with respect to claim 80.

37.   Claim 91

Claim 91 depends from claim 80. Claim 91 sets forth that calculating the value of the first guaranteed life-dependent retirement benefit as of the current date and each future interval of the allocation period includes performing actuarial valuations of the guaranteed life-dependent benefit purchased. The applied art does not show or suggest allocating a portion of funds corresponding to an asset vehicle towards purchasing fractions of a guaranteed life-dependent retirement benefit over intervals of an allocation period. Accordingly, the applied art does not show an actuarial valuation of the guaranteed life-dependent retirement benefit each future interval of the allocation period. Claim 91 is patentable over the applied art for at least the reasons set forth above with respect to claim 80.

B.   <u>CONCLUSION</u>

Appellant respectfully submits that the claims are patentable over the applied prior art for the reasons set forth above. Appellant requests that the outstanding rejections be reversed and that the Examiner be directed to allow this application.

Dated: June 15, 2010   Respectfully submitted,

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APPENDIX A. CLAIMS

Claims Involved in the Appeal of Application Serial No. 09/541,197

1-54.   (Cancelled)

55.   (Previously Presented) An integrated computer system for planning for
implementing and administering a retirement benefit program including at least one guaranteed
life-dependent retirement benefit to provide a guaranteed lifetime income to at least one person
using at least one or more personal financial assets owned by the person, the integrated computer
system comprising:

(a)   at least one server operatively coupled to a network to establish a data
communications link with at least one remote client computer operatively connected to the
network, the server being adapted to store information received from at least the remote client
computer necessary to plan for, implement and administer the retirement benefit program and
being further adapted to provide information related to the person's retirement benefit program
to at least the remote client computer;

(b)   the server including at least one controller adapted for performing operations of
the integrated computer system, the controller being operatively coupled to storage means for
storing financial and statistical information and retirement benefit program information
necessary to at least calculate current and future values of (i) asset vehicles, including one or
more personal financial assets owned by the person, (ii) one or more guaranteed life-dependent
retirement benefits selected by the person, and (iii) benefit payments to the person, the controller
being operatively coupled to an allocation component to provide at least allocation instructions
to the allocation component;

(c)   the allocation component being adapted to execute at selected intervals of an
allocation period in accordance with at least a first set of instructions an allocation of a portion
of funds corresponding to at least one asset vehicle containing one or more personal financial
assets owned by the person towards purchasing one or more fractions of at least a first
guaranteed life-dependent retirement benefit that provides one or more income benefit payments
to the person to thereby gradually purchase the first retirement benefit during the allocation
period while allowing a remainder of the funds corresponding to the asset vehicle to generate

investment returns, the first set of allocation instructions including at least information specified by the person;

(d)   the controller being adapted to calculate as of a current date: (i) a total current value representative of a sum of a current value of the first retirement benefit purchased to date based on an individual, personal actuarial valuation of the benefit and a market value of the asset vehicle, and (ii) a target benefit payment value representative of a benefit payment available to the person if the allocation component immediately accelerates the allocation period by executing an allocation of funds corresponding to the total current value towards purchasing a remainder of at least the first guaranteed life-dependent retirement benefit,

(e)   and to calculate for each future interval of the allocation period: (i) a total current value and (ii) a target benefit payment, employing at least relevant portions of the stored financial and statistical information related to future market performance, inflation and interest rates, the server providing the total current value and the target benefit payment value as of the current date, and the total current values and the target benefit payment values of future intervals of the allocation period to at least the remote client computer for consideration by the person;

(f)   the controller being further adapted to recalculate for each future interval of the allocation period a recalculated total current value and a recalculated target benefit payment value based on at least change information received from at least the remote client computer including at least one change to the retirement benefit program specified by the person, the server providing the recalculated total current values and the recalculated target benefit payment values of future intervals of the allocation period to at least the remote client computer for consideration by the person; and

(g)   the allocation component being further adapted to alter the allocation of funds towards achieving the recalculated total current values and the recalculated target benefit payment values in accordance with at least a second set of instructions including at least information specified by the person based on the at least one change to the retirement benefit program.

56.   (Previously Presented) The integrated computer system of claim 55, wherein the at least one change to the retirement benefit program specified by the person includes at least one of:

(i)   a change in a length of the allocation period, and (ii) one or more changes in the at least first guaranteed life-dependent retirement benefit.

57.   (Previously Presented) The integrated computer system of claim 55, wherein the server is further adapted to calculate a plurality of benefit payments to the person during and after the allocation period and to execute payment of each of the plurality of benefit payments to the person, each benefit payment being made to the person during the allocation period comprising a sum of a portion of funds from the at least one asset vehicle and one or more payments from the at least one guaranteed life-dependent retirement benefit purchased, and each benefit payment being made to the person after expiration of the allocation period comprising payments from the at least one retirement benefit purchased.

58.   (Previously Presented) The integrated computer system of claim 55, wherein the relevant portions of the stored financial and statistical information include at least one of: (i) historical market returns, (ii) simulated market returns, (iii) current interest rates, (iv) simulated interest rates, (v) current cost of living indices, and (vi) simulated cost of living indices, respectively, and wherein the server is further adapted to employ additional information including at least one or more person-specified personal choices related to the retirement benefit program to calculate the future total current values and the future target benefit payments.

59.   (Previously Presented) The integrated computer system of claim 55, wherein the at least one change to the retirement benefit program specified by the person includes at least one of:
(i)   one or more modifications of the allocation period, (ii) one or more modifications of the allocation of funds corresponding to the at least one asset vehicle, (iii) one or more modifications of the at least first guaranteed life-dependent retirement benefit, and (iv) one or more personal choices specified by the person related to the retirement benefit program.

60.   (Previously Presented) The integrated computer system of claim 55, wherein the server is further adapted to process information received from at least the remote client computer related to acceleration of the allocation period to instruct the allocation component to execute an

allocation of at least a portion of funds corresponding to the total current value towards purchasing a remainder of the at least first guaranteed life-dependent retirement benefit.

61.   (Previously Presented) The integrated computer system of claim 55, wherein the server further includes at least one simulation component adapted to generate a plurality of sample retirement benefit programs in accordance with at least one of: (i) one or more choices specified by the person and (ii) one or more modifications to a sample retirement benefit program specified by the person, each sample retirement benefit program including simulated results of allocations of portions of funds corresponding to the at least one asset vehicle towards gradually purchasing one or more fractions of at least one of a plurality of available guaranteed life-dependent retirement benefits at one or more selected intervals of the at least one of a plurality of available allocation periods, and wherein the server is further adapted to provide to at least the remote client computer the simulated results.

62.   (Previously Presented) The integrated computer system of claim 61, wherein the simulated results include simulated total current values and simulated target benefit payment values for the one or more selected intervals of the at least one available allocation period.

63.   (Previously Presented) The integrated computer system of claim 61, wherein the simulation component generates the simulated results as a function of at least one of: (i) simulated market performance information, (ii) simulated interest rates, and (iii) simulated inflation rates.

64.   (Previously Presented) The integrated computer system of claim 61, wherein the simulation component is further adapted to statistically calculate simulated purchase prices of the one or more fractions of the at least one available guaranteed, life-dependent retirement benefit, and wherein the server is adapted to provide the simulated purchase prices to at least the remote client computer.

65.   (Previously Presented) The integrated computer system of claim 64, wherein the simulation component is further adapted to statistically calculate the simulated purchase prices by employing information related to simulated interest rates and at least one of: (i) information

related to projected morbidity of the person; and (ii) information related to projected longevity of the person.

66.   (Previously Presented) The integrated computer system of claim 61, wherein the simulation component is further adapted to statistically determine at least one probability of achieving or exceeding the at least one available guaranteed life-dependent retirement benefit at an expiration of the at least one available allocation period, and wherein the server is adapted to provide the at least one probability to at least the remote client computer.

67.   (Previously Presented) The integrated computer system of claim 61 wherein the server is adapted to receive person-specified information from at least the remote client computer including at least one of: (i) information related to acceptance by the person of the one or more modifications; (ii) information related to rejection by the person of the one or more modifications, and (iii) information related to one or more modifications to the sample benefit program specified by the person, and wherein the simulation component is further adapted to recalculate the simulated results in accordance with the one or more modifications.

68.   (Previously Presented) The integrated computer system of claim 55, wherein the server further includes at least one actuarial valuation component adapted to perform for each of selected intervals of the allocation period an actuarial valuation of the at least first guaranteed life-dependent retirement benefit purchased to date.

69.   (Previously Presented) The integrated computer system of claim 55, wherein the controller is further adapted to calculate for selected intervals of the allocation period a market value of a remainder of the asset vehicle.

70.   (Previously Presented) The integrated computer system of claim 55, wherein the server is further adapted to provide to at least the remote client computer information to query the person with respect to at least one of: (i) one or more of a plurality of available guaranteed life-dependent retirement benefits the person desires, (ii) one or more of a plurality of available allocation periods the person desires, (iii) a risk tolerance of the person, (iv) one or more personal financial assets owned by the person, (iv) age of the person, and age of the person's

spouse, if any, (v) health status of the person, and (vi) one or more personal choices of the person related to the retirement benefit program, and to process information including at least one response the person provides in response to the query information toward implementing the retirement benefit program.

71.   (Previously Presented) The integrated computer system of claim 55, wherein the server is adapted to receive from at least the remote client computer information related to a person-specified benefit index desired for the at least first guaranteed life-dependent retirement benefit, the person-specified benefit index being selected from the group consisting of: (i) a level index, (ii) a COLA (CPI-linked) index, and (iii) a market-linked index, and to process the benefit index information towards implementing the retirement benefit program.

72.   (Previously Presented) The integrated computer system of claim 55, wherein the server is adapted to receive from at least the remote client computer information related to a person-specified benefit payment collar, the person-specified benefit collar corresponding to a percentage range below and above a benefit payment in order to dampen the volatility in income payments received, and to process the benefit collar information towards implementing the retirement benefit program.

73.   (Previously Presented) The integrated computer system of claim 55, wherein the server is adapted to receive from at least the remote client computer information related to a person-specified stop/loss indication, the person-specified stop/loss indication corresponding to a person-defined threshold level the server employs to indicate to the person during the allocation period the asset vehicle has reached at least one of: (i) a desired high market value, (ii) a desired low market value, and to process the stop/loss indication information toward implementing the retirement benefit program.

74.   (Previously Presented) The integrated computer system of claim 68, wherein the current value of the at least first guaranteed life-dependent retirement benefit as of the current date and for each of future intervals of the allocation period includes actuarial valuations of the at least first guaranteed life-dependent benefit purchased.

75.   (Previously Presented) The integrated computer system of claim 55, wherein the at least one asset vehicle includes one or more investment vehicles configured to generate investment returns during the allocation period to at least one of: (i) fund purchases of the at least first guaranteed life-dependent retirement benefit; and (ii) fund at least a portion of the plurality of benefit payments to the person.

76.   (Previously Presented) The integrated computer system of claim 55, wherein the remote client computer includes a remote computer operated by at least one of: (i) the person, (ii) a representative of the person, (iii) an advisor of the person.

77.   (Previously Presented) The integrated computer system of claim 55, wherein the remote client computer is operatively connected through the network to at least one computing device operated by the person.

78.   (Previously Presented) An integrated computer system for planning for, implementing and administering a retirement benefit program including at least one guaranteed life-dependent retirement benefits to provide a guaranteed lifetime income to at least one person using at least one or more personal financial assets owned by the person, the integrated computer system comprising:

     (a)   at least one server operatively coupled to a network to establish a data communications link with at least one remote client computer operatively connected to the network, the server being adapted to store information received from at least the remote client computer necessary to plan for, implement and administer the retirement benefit program and being further adapted to provide information related to the person's retirement benefit program to at least the remote client computer;

     (b)   the server including at least one controller adapted for performing operations of the integrated computer system, the controller being operatively coupled to storage means for storing financial and statistical information and retirement benefit program information necessary to at least calculate current and future values of (i) asset vehicles, including one or more personal financial assets owned by the person, (ii) one or more guaranteed life-dependent retirement benefits selected by the person, and (iii) benefit payments to the person, the controller

being operatively coupled to at least one simulation component to provide instructions to the simulation component;

(c)   the simulation component being adapted to generate a plurality of sample retirement benefit programs in accordance with one or more retirement benefit program choices specified by the person, each sample retirement benefit program including simulated results of allocations of portions of funds corresponding to at least one asset vehicle containing one or more personal financial assets owned by the person towards purchasing one or more fractions of at least one of a plurality of available guaranteed life-dependent retirement benefits at selected intervals of at least one of a plurality of available allocation periods, the server providing to at least the remote client computer the simulated results for consideration by the person;

(d)   the simulated results including for each of selected intervals of the available allocation period: (i) a simulated total current value representative of a sum of a current value of the available guaranteed life-dependent retirement benefit purchased to date based on an individual, personal actuarial valuation of the benefit and a market value of the asset vehicle, and (ii) a simulated target benefit payment value representative of a benefit payment available to the person if the controller immediately accelerates the allocation period by executing an allocation of funds corresponding to the simulated total current value towards purchasing a remainder of the available guaranteed life-dependent retirement benefit, the server providing the simulated results to at least the remote client computer for consideration by the person;

(e)   the simulation component being further adapted to recalculate the simulated total current value and the simulated target benefit payment value for each of selected intervals of the available allocation period based on at least change information received from at least the remote client computer including at least one change to the sample retirement benefit program specified by the person, the server providing to at least the remote client computer the recalculated simulated results for consideration by the person; and

(f)   the controller being adapted to implement at least one actual retirement benefit program based on selection information received from at least the remote client computer including information identifying at least one sample retirement benefit program selected by the person for implementation.

79.   (Previously Presented) The integrated computer system of claim 78, wherein the simulation component is further adapted to statistically calculate simulated purchase prices of

the one or more fractions of the available guaranteed life-dependent retirement benefit employing at least relevant portions of the stored financial and statistical information and the retirement benefit program information.

80.   (Previously Presented) A method for planning for, implementing and administering a retirement benefit program including at least one guaranteed, life-dependent retirement benefit to provide a guaranteed lifetime income to at least one person using at least one or more personal financial assets owned by the person, the method comprising:

(a)   allocating by use of a computing device and at selected intervals of an allocation period in accordance with at least a first set of instructions an allocation of a portion of funds corresponding to at least one asset vehicle, containing one or more personal financial assets owned by the person, towards purchasing one or more fractions of at least a first guaranteed life-dependent retirement benefit that provides one or more income benefit payments to the person to gradually purchase the at least first retirement benefit during the allocation period while allowing a remainder of the funds corresponding to the asset vehicle to generate investment returns, the first set of allocation instructions including at least information specified by the person;

(b)   calculating by use of said computing device and as of a current date: (i) a total current value representative of a sum of a current value of the first retirement benefit purchased to date based on an individual, personal actuarial valuation of the benefit and a market value of the asset vehicle, and (ii) a target benefit payment value representative of a benefit payment available to the person if the programmed computer immediately accelerates the allocation period by executing an allocation of funds corresponding to the total current value towards purchasing a remainder of at least the first guaranteed life-dependent retirement benefit,

(c)   calculating by use of said computing device and for each future interval of the allocation period: (i) a total current value and (ii) a target benefit payment, employing at least relevant portions of financial and statistical information related to future market performance, inflation and interest rates, and providing the total current value and the target benefit payment value as of the current date, and the total current values and the target benefit payments of future intervals of the allocation period to at least one remote client computer for consideration by the person;

(d)   recalculating by use of said computing device and for each future interval of the allocation period a recalculated total current value and a recalculated target benefit payment value based on at least change information received from at least the remote client computer including at least one change to the retirement benefit program specified by the person, and providing the recalculated total current values and the recalculated target benefit payment values of future intervals of the allocation period to at least the remote client computer for consideration by the person; and

(e)   altering, by use of said computing device, the allocation of funds towards achieving the recalculated total current values and the recalculated target benefit payment values in accordance with at least a second set of instructions including at least information specified by the person based on the at least one change to the retirement benefit program.

81.   (Previously Presented) The method of claim 80, wherein the at least one change to the retirement benefit program specified by the person includes at least one of: (i) a change in a length of the allocation period, (ii) one or more changes in the at least first guaranteed life-dependent retirement benefit, (iii) one or more modifications of the allocation period, (iv) one or more modifications of the allocation of funds corresponding to the at least one asset vehicle, (v) one or more modifications of the at least first guaranteed life-dependent retirement benefit, and (vi) one or more personal choices specified by the person related to the retirement benefit program.

82.   (Previously Presented) The method of claim 80, further comprising calculating a plurality of benefit payments to the person during and after the allocation period and executing payment of each of the plurality of benefit payments to the person, each benefit payment being made to the person during the allocation period comprising a sum of a portion of funds from the at least one asset vehicle and one or more payments from the at least one guaranteed life-dependent retirement benefit purchased, and each benefit payment being made to the person after expiration of the allocation period comprising payments from the at least one retirement benefit purchased.

83.   (Previously Presented) The method of claim 80, wherein the at least relevant portions of financial and statistical information related to future market performance, inflation

and interest rates include at least one of: (i) historical market returns, (ii) simulated market returns, (iii) current interest rates, (iv) simulated interest rates, (v) current cost of living indices, and (vi) simulated cost of living indices, respectively, and wherein the server is further adapted to employ additional information including at least one or more person-specified personal choices related to the retirement benefit program to calculate the future total current values and the future target benefit payments.

84.   (Previously Presented) The method of claim 80, further comprising processing information received from the least one remote client computer related to acceleration of the allocation period and accelerating the allocation period by allocating at least a portion of funds corresponding to the total current value towards purchasing a remainder of the at least first guaranteed life-dependent retirement benefit.

85.   (Previously Presented) The method of claim 80, further comprising simulating a plurality of sample retirement benefit programs in accordance with at least one of: (i) one or more choices specified by the person and (ii) one or more modifications to a sample retirement benefit program specified by the person, each sample retirement benefit program including simulated results of allocations of portions of funds corresponding to the at least one asset vehicle towards gradually purchasing one or more fractions of at least one of a plurality of available guaranteed life-dependent retirement benefits at one or more selected intervals of the at least one of a plurality of available allocation periods, and providing the simulated results to at least the remote client computer.

86.   (Previously Presented) The method of claim 85, wherein the simulated results include simulated total current values and simulated target benefit payment values for the one or more selected intervals of the at least one available allocation period, and further comprising calculating statistically simulated purchase prices by employing information related to simulated interest rates and at least one of: (i) information related to projected morbidity of the person; and (ii) information related to projected longevity of the person.

87.   (Previously Presented) The method of claim 85, wherein calculating the simulated results includes calculating the simulated results as a function of at least one of: (i)

simulated market performance information, (ii) simulated interest rates, and (iii) simulated inflation rates, and further comprising statistically calculating at least one probability of achieving the at least one available guaranteed life-dependent retirement benefit at an expiration of the at least one available allocation period.

88.   (Previously Presented) The method of claim 85, further comprising querying at least the remote client computer to provide information related to at least one of: (i) information related to acceptance by the person of the one or more modifications; (ii) information related to rejection by the person of the one or more modifications, and (iii) information related to one or more modifications to the sample benefit program specified by the person, and further comprising recalculating the simulated results in accordance with the one or more modifications.

89.   (Previously Presented) The method of claim 85, further comprising altering the allocation of funds in accordance with the simulated results in response to receiving information related to acceptance by the person of the one or more modifications.

90.   (Previously Presented) The method of claim 80, further comprising querying at least the remote client computer to provide information of at least one of: (i) one or more of a plurality of available guaranteed life-dependent retirement benefits the person desires, (ii) one or more of a plurality of available allocation periods the person desires, (iii) a risk tolerance of the person, (iv) one or more personal financial assets owned by the person, (iv) age of the person, and age of the person's spouse, if any, (v) health status of the person, and (vi) one or more personal choices of the person related to the retirement benefit program, and processing at least one response the person provides to querying towards implementing the retirement benefit program.

91.   (Previously Presented) The method of claim 80, wherein calculating the current value of the at least first guaranteed life-dependent retirement benefit as of a current date and for each of future intervals of the allocation period includes performing actuarial valuations of the at least first guaranteed life-dependent retirement benefit purchased.

92.   (Previously Presented) The method of claim 80, wherein the remote client computer includes a remote computer operated by at least one of: (i) the person, (ii) a representative of the person, and (iii) an advisor of the person.

93.   (Previously Presented) The method of claim 80, wherein the remote client computer is operatively connected to at least one computing device operated by the person.

APPENDIX B. EVIDENCE

A copy of evidence pursuant to §§ 1.130, 1.131, or 1.132 and/or evidence entered by or relied upon by the examiner that is relevant to this appeal is attached hereto. The following documents are included in this Appendix:

- January 31, 2007 Declaration of Jerome Golden

- September 17, 2007 Declaration of Larry Port

- American College CLU designation
  (http://www.theamericancollege.edu/subpage.php?pageId=256)

- American College CLU requirements
  (http://www.theamericancollege.edu/subpage.php?pageId=333)

- Code of Professional Responsibility of the Society of Financial Services Professionals.

January 31, 2007 Declaration of Jerome Golden

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	)	
	)	
Jerome Golden	)	Group Art Unit: 3692
	)	
Serial No. 09/541,197	)	Examiner: Siegfried Chencinski
	)	
Filed: April 3, 2000	)	
	)	

For: SYSTEM AND METHOD FOR PROVIDING SECURE RETIREMENT BENEFITS
       VIA A CONVERSION PROCESS

Assistant Commissioner for Patents

Washington, D.C. 20231

Sir:

DECLARATIONS OF JEROME GOLDEN PURSUANT TO 37 CFR 1.132

DECLARATION ESTABLISHING THE PRESENT INVENTION AS NOT

KNOWN IN THE ART AT THE TIME OF INVENTION

In support of the statements made at an Examiner's interview which I, Jerome Golden

(Inventor of Present Application, President of the Income Management Strategies Division of

MassMutual Financial Corp.), Trish Walsh (Vice President and Associate General Counsel,

MassMutual Financial Corp.), Thomas J. Scott, Jr. (Applicant's Representative), John LeBlanc

(Clerk of Applicant's Representative), Frantzy Poinvil (Primary Examiner) and Siegfried

Chencinski (Examiner) attended for this application conducted on January 16, 2007, I, Jerome

Golden declare that:

1.   I am the sole inventor of the invention described in the above referenced application.

2.   I have worked in the financial services industry since 1965.

3.   I have extensive experience in and knowledge of, insurance and investment products, financial and retirement planning software, administrative systems to manage financial products, and the development, marketing and administering of such products.

4.   While at The Equitable Life Assurance Society of The United States ("Equitable") from April, 1994 to June, 1999 my position as President of the Income Management Group and as Executive Vice President, required me to remain informed, among other things, about the insurance, annuity and retirement product offerings of Equitable as well as those of Equitable's competitors. I was not at that time through the time of the invention of the present application, aware of any systems or products that provided individual clients with the benefits of the present invention. In my experience, such products are marketed by companies and are not maintained as trade secrets. Thus, if a company has developed a product or system, the product is marketed and other members of the trade would become aware of the product. An example of this is the Principal Financial Group article attached and described in paragraph 6 below.

5.   Subsequent to my employment at Equitable, I formed my own company for financial

products and planning, Golden Retirement Resources, Inc, in July, 1999. After forming my

company, I developed a system and an appropriate method for converting an individual's

retirement assets into a personalized, individual retirement benefit program -- the system and

method disclosed in the present application. On April 3, 2000 I filed the present application

claiming this invention. I further developed, as part of my development of the system and

method described in the present application, a unique commercial annuity which is one way of

providing the guaranteed life-dependent retirement benefits indicated by the present application

to a particular individual (the "Commercial Annuity").

6.   In June, 2002, I licensed the invention described in the present application to the

Principal Financial Group. The Principal Financial Group realized the need for such a product

and introduced it as part of their "Principal Income IRA" on January 23, 2003 (see attached

article available at http://www.findarticles.com/p/articles/mi_m0EIN/is_2003_

Jan_23/ai_96740742/print). To my knowledge, since prior to the time of the invention, the

Principal Financial Group is and has been a market leader in the 401K and IRA area with

sufficient resources to develop the system and method of the present invention if they had

conceived of it. During my licensing discussions with the Principal Financial Group, I did not

become aware of any products, systems or methods which provided the features and benefits of

the present invention. An embodiment of the present invention was licensed as "the

RetireMentor System" to the Principal Financial Group.

7.   As a part of the licensing of an embodiment of the present invention, Golden Retirement

Resources, Inc. obtained, on behalf of Principal, approval of the Commercial Annuity in all fifty

states under the State insurance laws. Based on my experience in the insurance industry, the

Commercial Annuity contained several unique features; that was confirmed as part of the

approval process with the states. The approval process requires the filing of the contract, the

application for the contract and an actuarial statement, with each state free to comment on any

aspect of the filing. I and my colleagues at Golden Retirement Resources, Inc. and Principal had

numerous and detailed conversations with insurance department representatives from many

states. It appeared clear to us, because of the number of questions about the product for which

approval was requested, that to the knowledge of the insurance department representatives, the

product with its novel features was considered not well-known or conventional and was, in fact, unique. The Commercial Annuity is used to commercialize one version of the system and method of the present application.

8.   In June of 2005, Golden Retirement Resources was acquired by the MassMutual Financial Group where I currently am employed as President of the Income Management Strategies Division. In my current position, a portion of my responsibilities includes overseeing the development and management of financial and retirement systems and products. My position requires that I remain informed of current market offerings of financial and retirement systems and products. During my employment at MassMutual, I have not become aware of any products, systems or methods which provided the features and benefits of the present invention.

9.   I know of no other product, system or method, prior to the present invention, which provided for the planning, implementing and servicing of a guaranteed life-dependent retirement benefit for a person which included allocating a portion of funds from one or more personal financial assets of an individual towards purchasing one or more fractions of a guaranteed life-dependent retirement benefit to provide one or more income benefits payable to the person.

10.   I know of no other product, system or method which provided or used, prior to the present invention, the current value of a retirement benefit purchased to date based on an individual, personal actuarial valuation of the guaranteed life-dependent retirement benefit for an individual. General actuarial valuation of an annuity, for example, is used to determine the liability of the company issuing the annuity using factors established when the annuity is issued. In contrast, the present invention determines the value of the life-dependent benefits as an asset for the individual, based on market rates at the date of calculation.

11.   I know of no other product, system or method which provided or used, prior to the present invention, the conversion of a portion of the beneficiary's one or more financial assets at selected intervals of an allocation period in accordance with allocation instructions specified by the beneficiary to purchase one or more fractions of a guaranteed life-dependent retirement benefit. Since the Commercial Annuity was not available prior to the invention, no conversion could be accomplished to a single financial instrument providing guaranteed life-dependent benefits, and to support the change in guaranteed life-dependent retirement benefits (as referred to in paragraph 13 below).

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12.   I know of no other product, system or method which provided or used, prior to the

present invention, the recalculating for each future interval of the allocation period, a

recalculated total current value and a recalculated target benefit payment value based on change

information to the retirement program received from the beneficiary.

13.   I know of no other product, system or method which provided or used, prior to the

present invention, altering of the allocation of funds to achieve a recalculated total current value

and a recalculated target benefit payment value in accordance with a change to the guaranteed

life-dependent retirement benefit specified by the recipient.

14.   I declare that the statements made of my own knowledge are true and statements made on

information and belief are believed to be true; and that these statements are made with

knowledge that willful false statements and the like are punishable by fine or imprisonment or

both under Section 1001 of Title 18 of the United States Code or other provisions, and that any

such willful false statements, if filed, may jeopardize the validity of any related patent

application or patent issuing thereon from the U.S. Patent Office.

Date: January 3/, 2007   By: _Jerome Golden_____
                                                      Jerome Golden

September 17, 2007 Declaration of Larry Port

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
)
    Jerome Golden)   Group Art Unit: 3692
)
Serial No. 09/541,197)   Examiner: Siegfried Chencinski
)
Filed: April 3, 2000)
)

For: SYSTEM AND METHOD FOR PROVIDING SECURE RETIREMENT BENEFITS
       VIA A CONVERSION PROCESS

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

DECLARATIONS OF LARRY PORT PURSUANT TO 37 CFR 1.132

In support of U.S. Patent Application 09/541,197, I Larry Port, Senior Vice President in the

MassMutual Financial Group declare that:

1. I have worked in the financial services industry since 2000.

2. I have been employed by the MassMutual Financial Group since 2000. From 2000

   through 2007 I was employed by the Massachusetts Mutual Life Insurance Company. I

   am currently employed by Babson Capital Management LLC, which is an affiliate of the

   Massachusetts Mutual Life Insurance Company. MassMutual Financial Group is the

   fleet name of the Massachusetts Mutual Life Insurance Company and its affiliates.

3. During my employment with the MassMutual Financial Group. I was made aware of the

   products and activities of Golden Retirement Resources, Inc. These products included a

Commercial Annuity. The Commercial Annuity provided for the allocation of an asset at selected intervals of an allocation period in accordance with allocation instructions provided by the beneficiary to purchase a single instrument providing guaranteed life-dependent benefits. The Commercial Annuity supported changes in the guaranteed life-dependent benefits provided.

4. I further was made aware of activities by Golden Retirement Resources, Inc. to develop and license systems that permit a beneficiary to implement and administer a retirement benefit program including the allocation of one or more assets owned by the beneficiary to a guaranteed, life-dependent retirement benefit.

5. Upon observing the products and activities of Golden Retirement Resources, MassMutual Financial Group desired to obtain a product and system that provides for the conversion of an asset at selected intervals of an allocation period to purchase a guaranteed life-dependent benefit.

6. In late 2004 MassMutual Financial Group sought to acquire Golden Retirement Resources. Golden Retirement Resources possession of the Commercial Annuity product and related products and systems for managing the Commercial Annuity product were critical to the decision to acquire Golden Retirement Resources. Through the acquisition of Golden Retirement Resources, MassMutual Financial Group obtained a product that enables a client to allocate an asset at selected intervals of an allocation period to purchase a guaranteed life-dependent benefit. Acquisition of the Commercial Annuity product and its related products and systems was the principal reason that MassMutual Financial Group sought to acquire Golden Retirement Resources.

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7. In June of 2005 MassMutual Financial Group completed the acquisition of Golden

Retirement Resources. Golden Retirement Resources was acquired primarily to provide

MassMutual Financial Group with a product that enables a client to allocate an asset at

selected intervals of an allocation period to purchase a guaranteed life-dependent benefit.

8. I declare that the statements made of my own knowledge are true and statements made on

information and belief are believed to be true; and these statements are made with

knowledge that willful false statements and the like are punishable by fine or

imprisonment or both under Section 1001 of Title 18 of the United States Code or other

provisions, and that any such willful false statements, if filed, may jeopardize the validity

U.S. Patent Application 09/541,197 or any patent issued thereon.

Date: _September 17, 2017_   By: _Larry Port_

Larry Port

American College CLU designation

(http://www.theamericancollege.edu/subpage.php?pageId=256)

CLU® Insurance Specialty
Advanced Insurance Specialization

The CLU (Chartered Life Underwriter) Designation can be earned by completing 5 required courses, HS 311, HS 323, HS 324, HS 330, and HS 331, and 3 elective courses from the following group: HS 300, HS 313, HS 321, HS 325, HS 326, HS 328 and HS 334.

The CLU is the world's most respected mark of in
significant competitive advantage in this competiti
helps advance your career by providing in-depth k
individuals, business owners and professional clie
to 51% higher production income than their peers.

Earn the CLU Your Way
The comprehensive core of CLU knowledge is sur
courses, allowing you to customize the program tc
Complete your program as fast as you like with le:
study aides at no additional charge, including:

- supplemental readings
- online discussion with course professors

American College CLU requirements
(http://www.theamericancollege.edu/subpage.php?pageId=333)

Program Completion Requirements
To receive these designations (CLU®/ChFC®/RHU®/REBC®/CLF®), you must successfully complete all courses in your selected program, meet experience requirements and ethics standards, and agree to comply with The American College Code of Ethics and Procedures.

Experience

Three years of full-time business experience is required for all Huebner School designations. The three-year period must be within the five years preceding the date of the award. An undergraduate or graduate degree from an accredited educational institution qualifies as one year of business experience. Part-time qualifying business experience is credited toward the three-year requirement on an hourly basis, with 2,000 hours representing the equivalent of one year full-time experience. The following activities meet the required business experience qualifications included in the CLU/ChFC/RHU/REBC/CLF certification process.

Insurance and health care

- Field underwriting and management, including sales and service activities, supervision and management of persons involved in sales or services, or staff support of persons in these activities.

- Company management and operations in positions involving substantial responsibility.

Financial services and employee benefits

- Client service and related management, including direct contact with clients, supervision and management of persons involved directly in the process of providing financial services or employee benefits, or staff support of persons in these activities.

- Financial institution management and operations in positions involving substantial responsibility.

Other

- University or college teaching of subjects related to the Huebner School curriculum on a full-time basis at an accredited institution of higher education.

- Government regulatory service in a responsible administrative, supervisory, or operational capacity.

- Activities directly or indirectly related to the protection, accumulation, conservation, or distribution of the economic value of human life; these include the work of actuaries, attorneys, CPAs, investment advisers, real estate investment advisers, stockbrokers, trust officers, or persons in other similar occupations.

Code of Ethics

To underscore the importance of ethics standards for Huebner School designations, the Board of Trustees adopted a Code of Ethics in 1984. Embodied in the Code are the Professional Pledge and eight Canons.

The Professional Pledge

- "In all my professional relationships, I pledge myself to the following rule of ethical conduct: I shall, in light of all conditions surrounding those I serve, which I shall make every conscientious effort to ascertain and understand, render that service which, in the same circumstances, I would apply to myself."

The Canons

- I. Conduct yourself at all times with honor and dignity.
- II. Avoid practices that would bring dishonor upon your profession or The American College.
- III. Publicize your achievements in ways that enhance the integrity of your profession.
- IV. Continue your studies throughout your working life so as to maintain a high level of professional competence.
- V. Do your utmost to attain a distinguished record of professional service.
- VI. Support the established institutions and organizations concerned with the integrity of your profession.
- VII. Participate in building your profession by encouraging and providing appropriate assistance to qualified persons pursuing professional studies.
- VIII. Comply with all laws and regulations, particularly as they relate to professional and business activities.

Continuing Education

All CLUs and ChFCs who matriculated after June 30, 1989, and all RHUs, REBCs, and CLFs are subject to the PACE Recertification Program. If you are a CLU, ChFC, RHU, REBC, or CLF who falls into any of the following specified categories, you are required to earn 30 hours of CE credit every two years:

- Licensed insurance agent/broker/consultant

- Licensed security representative/registered investment advisor

- Financial consultant, attorney, accountant, employee benefits specialist, and any other individual who provides insurance, employee benefits, financial planning, or estate planning advice and counsel to the public

If you have earned all 30 CE credits through The American College, you do not have to sign and

file a statement of compliance. The College will record CE credits you earned at The College and notify you when you have met the requirements.

If you are a CLU, ChFC, RHU, REBC, or CLF subject to PACE but do not fall into one of the above categories, you are exempt from the CE requirements. You will be required to notify the College of your exempt status every reporting period, as long as the exemption applies.

Click here to read more about PACE requirements.
Download the PACE Recertification Form.

Code of Professional Responsibility of the Society of Financial Services Professionals

CODE OF PROFESSIONAL RESPONSIBILITY
OF THE
SOCIETY OF FINANCIAL SERVICE PROFESSIONALS

The Code of Professional Responsibility of the Society of Financial Service Professionals is divided into five components, as follows:

- Preamble – a brief introduction to the Code of Professional Responsibility, including its history and purpose.
- Canons – aspirational model standards of exemplary professional conduct.
- Rules – specific standards of a mandatory and enforceable nature.
- Applications – practical examples of how the canons and rules apply in given situations.
- Disciplinary Procedures – the mechanisms for enforcement of the Code of Professional Responsibility.

PREAMBLE

The Society of Financial Service Professionals is dedicated to setting and promoting standards of excellence for professionals in financial services. In fulfillment of this mission, the Society's Board of Directors has adopted this Code of Professional Responsibility. All Society members are automatically bound by its provisions.

The ultimate goal of enacting the Code is to serve the public interest. The path to fulfilling the goal is the fostering of professionalism in financial services. A profession has been defined in the writings of Solomon S. Huebner as possessing four essential traits:

  o   knowledge or expertise
  o   service to others
  o   working with other professionals to enhance the practice and reputation of one who is a member
  o   self-regulation

Through its Code of Professional Responsibility, the Society strives to improve the level of ethical behavior among its members by articulating standards that are aspirational in nature, that is, by identifying the lofty, altruistic ideals that define a true profession, and by delineating and enforcing minimum standards of ethical conduct.

This Code of Professional Responsibility has its origin in the code of ethics of the American Society of CLU & ChFC, the predecessor organization of the Society of Financial Service Professionals. The members of the Society created and adopted a code of ethics in 1961. With a name change in the fall of 1998, and a broadened membership constituency, it became appropriate to create this new Code of Professional Responsibility.

The Society acknowledges the diversity of its membership...from those that serve the public directly, as advisers, to those that serve indirectly through companies, educational organizations, and the like. Whatever role he or she plays within the financial services industry, it is the responsibility of each Society member to understand and adhere to the Code of Professional Responsibility.

From time to time, a Society member may be unclear about the ethical implications of a given course of action. In such cases, a Society member may request an advisory opinion from the Society, or may seek confidential advice through the Society's Ethics Information Line. Advisory opinions will be unpublished and specific to the inquiring member. However, there may be instances in which the subject matter of the advisory opinion has broad, general application and in such cases, at its discretion, the Society may chose to publish a given opinion for the benefit of all members, preserving the anonymity of those involved.

An alleged violation of the Society's Code of Professional Responsibility will result in an enforcement action, carried out in accordance with the Disciplinary Procedures. The procedures ensure that any member charged with ethical misconduct is afforded appropriate due process. The procedures also provide for appropriate sanctions, such as reprimand, censure, and revocation of membership, should a member be found to have acted in violation of the

Code.

True enforcement of ethical behavior must come from the personal conscience of each individual, rather than external forces. Nevertheless, as an organization that promotes its members' education and expertise to the consumer, the Society believes it is essential that it act in an enforcement capacity.

CANONS

CANON 1 *Fairness*

A member shall perform services in a manner that respects the interests of all those he/she serves, including clients, principals, partners, employees, and employers. A member shall disclose conflicts of interests in providing such services.

Fairness requires that a professional treat others as he/she would wish to be treated if in the other's position. A professional also strives to avoid unfairness by inflicting no unnecessary harm on others and, when possible, shielding others from harm.

RULES

R1.1 A member shall not engage in behavior involving concealment or misrepresentation of material facts.

Applications for Rule 1.1:

A1.1a. In the sale of financial products, the use of product projections that are more aggressive than the company's current assumptions – without offering alternate illustrations/projections using more conservative assumptions – is a form of misrepresentation. It is best to show a range of assumptions for each product to illustrate the impact of changes on the rate of return and other expenses.

A1.1b. To avoid misrepresentation, the financial services professional is advised to use unbiased historical illustrations, show past performance, and to educate the consumer on the difference between past results and projections, and actual future results.

A1.1c. Improper replacement is a form of misrepresentation. When considering the replacement of one insurance, annuity, or other financial product for another, a thorough comparison of both products, including surrender charges, incontestable clauses, expenses, fees, and tax consequences, should be completed. The Society's Replacement Questionnaire (RQ) provides a tool for the thorough analysis of replacement issues.

A1.1d. Failing to note a preexisting medical condition on an insurance application is a form of concealment.

R1.2 A member shall respect the rights of others.

R1.3 A member shall disclose to the client all information material to the professional relationship, including, but not limited to, all actual or potential conflicts of interest. In a conflict of interest situation, the interest of the client must be paramount.

Applications for Rule 1.3

A1.3a. A potential conflict of interest is inherent in the relationship between the client and the financial service professional when the professional is compensated by commissions on the sale of financial products. In such circumstances, if asked by the client or prospect, the professional should disclose, to the best of his/her knowledge, all forms of compensation, including commissions, expense allowances, bonuses, and any other relevant items.

A1.3b. The potential for a conflict of interest exists when a financial service professional receives fees for referring business to another practitioner. The referring professional should disclose this information.

A1.3c. A member who serves as a director or trustee of an organization/business faces a conflict of interest when

competing to provide product or services to this organization for compensation. For example, Jackie Jones, ChFC, a professional money manager, is on the board of XNet Corporation. XNet is currently interviewing candidates to manage its $10 million investment portfolio. If Jackie decides to seek XNet's account, she is in a conflict of interest situation. Under these circumstances, Jackie should disclose the conflict to all relevant parties and have the parties acknowledge and accept the conflict. Additionally, Jackie should consider recusing herself from all discussions and decision-making regarding the selection of XNet's money manager. She may also consider resigning from the board or taking her name out of consideration for the money manager position.

R1.4 A member shall give proper respect to any relationship that may exist between the member and the companies he or she represents.

Application for Rule 1.4

A1.4a. Society members frequently have contractual relationships with the company whose products they sell. Honoring the terms of these contracts and refraining from negative statements about such companies are examples of giving proper respect to the relationship. Note, however, the need to balance the requirements of Rule 1.4 with the duty to act in the best interest of the client.

R1.5 A member shall make and/or implement only recommendations that are appropriate for the client and consistent with the client's goals.

Applications for Rule 1.5

A1.5a. Compliance with Rule 1.5 requires the financial service professional to use his/her best efforts to (1) understand the client's/prospect's personal and financial background and experience; (2) understand the client's/prospect's risk tolerance; and (3) educate the client about the various options available to meet identified needs and goals. This may include utilizing a fact-finding and/or risk assessment tool, one-on-one educational/counseling sessions, sharing newspaper or magazine articles, etc. In these circumstances, the financial service professional is cautioned against providing advice if he or she is not properly licensed or authorized to do so. See also Rule 2.2 and the Application A2.2a.

A1.5b. Appropriateness of the recommendation to the client's needs must take precedence over any sales incentives available to the financial service professional, such as conventions, trips, bonuses, etc. For example, Bob Bucks needs to sell just one more policy to qualify for MDRT. He knows he can convince his best client to purchase additional insurance coverage even though Bob knows the current coverage is more than adequate. If Bob makes this sale, he has violated Rule 1.5.

R1.6 In the rendering of professional services to a client, a member has the duty to maintain the type and degree of professional independence that (a) is required of practitioners in the member's occupation, or (b) is otherwise in the public interest, given the specific nature of the service being rendered.

Application for Rule 1.6

A1.6a. The requirement of professional independence mandated by Rule 1.6 presents a special challenge for Society members who are contractually bound to sell the products of only one company, or a select group of companies. In such cases, the member must keep paramount his/her ethical duty to act in the best interest of the client, even if this means forgoing a sale.

CANON 2 Competence

A member shall continually improve his/her professional knowledge, skill, and competence.

Professionalism starts with technical competence. The knowledge and skills held by a professional are of a high level, difficult to attain, and, therefore, not held by the general public. Competence not only includes the initial acquisition of this specialized knowledge and skill, but also requires continued learning and practice.

RULES

R2.1 A member shall maintain and advance his/her knowledge in all areas of financial service in which he/she is engaged and shall participate in continuing education programs throughout his/her career.

Application for Rule 2.1

A. 2.1a. Compliance with Rule 2.1 requires, at a minimum, meeting the applicable continuing education standards set by state licensing authorities, the Society of Financial Service Professionals, the American College, the CFP Board of Standards, and any other entity with appropriate authority over the member's license(s) or other credentials. For example, PACE, the joint CE program of the Society of and the American College requires 30 hours of CE every 2 years. The CFP Board of Standards also requires 30 hours of continuing education every 2 years for CFP® licensees.

R2.2 A member shall refrain from giving advice in areas beyond the member's own expertise.

Applications for Rule 2.2

A2.2a. A member shall not give tax, legal, insurance, accounting, actuarial, investment, or other advice unless the member has professional training and is properly licensed in these areas. For example, to avoid the unauthorized practice of law, the financial service professional will clearly mark specimen documents, such as living or testamentary trusts or buy-sell agreements, as samples and inform the client that the documents must be reviewed by a licensed attorney.

A2.2b. Billy Burke, CFP®, has a specialized financial planning practice that focuses on assisting clients with funding college for their children. When Billy's long-time client and friend, Margaret Hamilton, asks for help in managing the distribution of funds from her defined benefit plan, Billy knows this is beyond his area of expertise, but he doesn't want to let his friend down. Billy proceeds to recommend several investment options to Margaret, but neglects to mention the early withdrawal taxes and penalties. Billy has violated Rule 2.2.

CANON 3 *Confidentiality*

A member shall respect the confidentiality of any information entrusted to, or obtained in the course of, the member's business or professional activities.

A financial service professional often gains access to client records and company information of a sensitive nature. Each Society member must maintain the highest level of confidentiality with regard to this information.

RULES

R3.1 A member shall respect and safeguard the confidentiality of sensitive client information obtained in the course of professional activities. A member shall not divulge such information without specific consent of the client, unless disclosure of such information is required by law or necessary in order to discharge legitimate professional duties.

Application for Rule 3.1

A3.1a. Examples of sensitive client information include, but are not limited to, medical data, information about financial status, Social Security or credit card numbers, information about personal relationships, etc. In determining whether information is sensitive, the Society member should take a cautious approach, and if in doubt, discuss the issue with the client.

R3.2 A member shall respect and safeguard the confidentiality of sensitive company/employer information obtained in the course of professional activities. A member shall not divulge such information without specific consent, unless disclosure of such information is required by law or necessary in order to discharge legitimate professional duties.

R3.3 A member must ensure that confidentiality practices are established and maintained by staff members so that breaches of confidence are not the result of intentional or unintentional acts or omissions.

Application for Rule 3.3

A3.3a. A member who employs others who work with sensitive, confidential client information has the responsibility to train these employees in the handling of such information. These employees must be instructed that they will be held responsible for unauthorized disclosure of confidential data. For example, Judy Parker has set up detailed procedures for her staff to follow in safeguarding confidential client information. On three separate occasions, Judy overhead her office manager gossiping with friends about the size of Client X's investment portfolio. Judy has not taken any action in regard to the office manager's behavior. Judy has violated Rule 3.3.

CANON 4 *Integrity*

A member shall provide professional services with integrity and shall place the client's interest above his/her own.

Integrity involves honesty and trust. A professional's honesty and candor should not be subordinate to personal gain or advantage. To be dishonest with others is to use them for one's own purposes.

RULES

R4.1 A member shall avoid any conduct or activity that would cause unnecessary harm to others by:

- Any act or omission of a dishonest, deceitful, or fraudulent nature.
- Pursuit of financial gain or other personal benefits that would interfere with the exercise of sound professional judgments and skills.

R4.2 A member shall establish and maintain dignified and honorable relationships with those he/she serves, with fellow practitioners, and with members of other professions.

Application for Rule 4.2

A4.2a. A member needs to be respectful in all dealings with another financial service professional in competitive engagements and avoid at all costs defamatory remarks to the client or other professionals. This does not mean a member cannot provide impartial factual information about a competitor. For example, in trying to help a friend make a decision about which long-term care policy to purchase, Joe Carter, CLU, reviews the features of each contract and accurately notes that his competitor's policy fails to provide coverage for Home care. Joe recommends that his friend review this information with his agent.

R4.3 A member shall embrace and adhere to the spirit and letter of laws and regulations governing his/her business and professional activities. See also Rule 6.1.

R4.4 A member shall be truthful and candid in his/her professional communications with existing and prospective clients, and with the general public.

Applications for Rule 4.4

A4.4a. Financial service professionals will not use words or make statements in brochures or advertising materials or in any client communication that create false impressions or have the potential to mislead. For example, product salespersons should not refer to themselves as financial/estate planners/consultants, if they do not provide these services. Words such as deposits or contributions should not be used to describe life insurance premiums. Life insurance policies should not be referred to as retirement plans. Discussion of vanishing premiums and guaranteed performance should be avoided. Financial service professionals must avoid creating the impression that they represent a number of companies when they place business with only a few companies. (See also Rule 1.6.)

A4.4b. Candid communication is required when a client is acting or intends to act outside the law. In such cases, the member should terminate the professional relationship and seek the advice of appropriate advisers. For example,

Lisa Long, CLU, CFP®, an investment adviser, has been asked by her client to effect a transaction based on insider information. Lisa must immediately advise her client that insider trading is a violation of SEC rules and could result in criminal charges. Lisa should also document what has happened; and if, the client plans to proceed with the transaction, Lisa should terminate the relationship. Lisa should also consult her own legal and ethical advisers as to whether she has additional legal obligations under these circumstances. Lisa's legal obligations will impact her ethical obligations.

R4.5. A member shall refrain from using an approved Society designation, degree, or credential in a false or misleading manner.

Application for Rule 4.5

A4.5a. A member must not use Society-recognized professional designations in his/her company name, tagline, or brochures in a manner which would be misleading. For example, John Smith, ChFC, and Associates is acceptable. John Smith and Associates, Chartered Financial Consultants Is not because it creates the impression that everyone associated with the firm is a Chartered Financial Consultant. (See Rule 7.7 also.)

CANON 5 *Diligence*

A member shall act with patience, timeliness, and consistency in the fulfillment of his/her professional duties.

A professional works diligently. Knowledge and skill alone are not adequate. A professional must apply these attributes in a prompt and thorough manner in the service of others.

RULES

R5.1 A member shall act with competence and consistency in promptly discharging his/her responsibilities to clients, employers, principals, purchasers, and other users of the member's services

R5.2 A member shall make recommendations to clients, whether in writing or orally, only after sufficient professional evaluation and understanding of the client's needs and goals. A member shall support any such recommendations with appropriate research and documentation.

R5.3 A member shall properly supervise subordinates with regard to their role in the delivery of financial services, and shall not condone conduct in violation of the ethical standards set forth in this Code of Professional Responsibility.

CANON 6 *Professionalism*

A member shall assist in raising professional standards in the financial services industry.

A member's conduct in all matters shall reflect credit upon the financial services profession. A member has an obligation to cooperate with Society members, and other financial service professionals, to enhance and maintain the profession's public image and to work together to improve the quality of services rendered.

RULES
R6.1 A member has the duty to know and abide by the local, state, and national laws and regulations and all legal limitations pertaining to the member's professional activities.

Applications for Rule 6.1

A6.1a. The financial service profession is subject to state and federal laws and regulation in the areas of securities, insurance, banking, and unfair trade practices, among others. Society members must understand these laws and

regulations and their applicability to their practices. For example, Susan Short, CLU, just earned her CFP® license, and is planning on expanding her practice to include comprehensive financial planning services. Does Susan need to register as an investment adviser? Must she be licensed with the National Association of Securities Dealers? What about state insurance laws? Susan must answer these questions and comply with the appropriate requirements for her business actitivies.

A6.1b. Jon Planner receives equity commissions throughout the year. As part of a prearranged agreement, he transfers these commissions to the corporation for whom he works. Jon later learns that this is a violation of NASD rules and that commissions cannot be split with corporations. Jon is ethically obligated to correct this situation and to further educate himself on the rules and regulations applying to his business.

R6.2 A member shall support the development, improvement, and enforcement of such laws, regulations, and codes of ethical conduct that foster respect for the financial service professional and benefit the public.

Application for Rule 6.2

A6.2a. Suppose Congress is contemplating a measure that would increase the regulatory burden on financial service professionals by requiring increased documentation of specific client transactions. There is firm evidence that enactment of this measure would substantially reduce the likelihood of client's being misled or confused about such transactions. Rule 6.2 would require Society members to support such a measure.

R6.3 A member shall show respect for other financial service professionals and related occupational groups by engaging in fair and honorable competitive practices; collegiality among members shall not impede enforcement of this Code.

R6.4 A member shall cooperate with regulatory authorities regarding investigations of any alleged violation of laws or regulations by a financial service professional.

CANON 7 *Self-Regulation*

A member shall assist in maintaining the integrity of the Society's Code of Professional Responsibility and of the professional credentials held by all Society members.

Every professional has a responsibility to regulate itself. As such, every Society member holds a duty of abiding by his/her professional code of ethics. In addition, Society members have a duty to facilitate the enforcement of this Code of Professional Responsibility.

RULES

R7.1 A member has the duty to know and abide by all rules of ethical and professional conduct prescribed in this Code of Professional Responsibility.

Application for Rule 7.1

A7.1a. Society members are advised to review the Code of Professional Responsibility at least annually.

R7.2 A member shall not sponsor as a candidate for Society membership any person known by the member to engage in business or professional practices that violate the rules of this Code of Professional Responsibility.

R7.3. A member shall not directly or indirectly condone any act by another member prohibited by this Code of Professional Responsibility.

Application for Rule 7.3

A7.3a. If requested, a Society member should serve on such committees, boards, or hearing panels as are prescribed by the Society for administration or enforcement of the Code of Professional Responsibility. A Society member is obligated to disqualify him/herself from such service if he/she cannot not serve in a fair and impartial manner.

R7.4 A member shall immediately notify the Society if he/she is found in violation of any code of ethics to which he or she is subject and shall forward details to the Society.

R7.5 A member shall immediately notify the Society of any revocation or suspension of his/her license by a state or federal licensing or regulatory agency and forward details to the Society.

Application for Rule 7.5

A7.5a. If, after due process, a Society member is judged to have violated the code of ethics of another organization, he/she should notify the Society and provide such detail as may be necessary.

R7.6 A member possessing unprivileged information concerning an alleged violation of this Code of Professional Responsibility shall report such information to the appropriate enforcement authority empowered by the Society to investigate or act upon the alleged violation.

Applications for Rule 7.6

A7.6a. If a member believes that another member of the Society may have violated the Code of Professional Responsibility, the Society recommends, where feasible, that direct communication between the two members be the first step in addressing the problem.

A7.6b. The Society's Code of Professional Responsibility places responsibility upon all members to report violations of this Code. (See also Rule 7.6.)

R7.7 A member shall report promptly to the Society any information concerning the unauthorized use of an approved Society designation, degree, or credential.

Application for Rule 7.7

A7.7a. The Society logo may be imprinted on business cards and stationery used exclusively by the person who is a Society member. (See also Rule 4.6.)

APPENDIX C. RELATED PROCEEDINGS

No related proceedings are referenced in Section II of the Appeal Brief above, hence copies of decisions in related proceedings are not provided.